

WORKERS' COMPENSATION **ANNUAL REPORT**

FISCAL YEAR 2015



Montana Department of
LABOR & INDUSTRY

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FISCAL YEAR 2015

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Montana Department of
LABOR & INDUSTRY

LETTER FROM THE COMMISSIONER

Dear Colleagues and Fellow Montanans,

Life provides us with many reminders of the passage of time and how, in the blink of an eye, something that seemed to happen just yesterday, was really several years ago. Although it sometimes seems like just yesterday, it has been over five years since the historic passage of HB 334 by the 2011 Montana Legislature. This bill provided an overhaul to many aspects of how workers' compensation functions in Montana. It sought to improve on many key system cost drivers and reduce high premiums to Montana's employers. Inside, you will find detailed information on Montana's workers' compensation system, compiled and reported by the staff in the Employment Relation's Division (ERD).

Much has happened since the implementation of HB 334. The National Council on Compensation Insurance (NCCI), recently reported that Montana's cumulative loss costs on workers' compensation have decreased by 47.1% since 2007. They also reported that Montana experienced the largest decrease in medical loss cost severity from 2010-2014 of all states reporting to NCCI, attributing that change to the success of the 2011 reforms. These improvements directly correlate to lower costs for Montana employers.

At the Department level, ERD staff has developed a stay-at-work/return-to-work program, providing return-to-work outreach to employers and assistance to injured workers. ERD also finalized utilization and treatment guidelines for injured worker medical care and updates those guidelines annually with the input of stakeholders. Another provision in the 2011 reforms allowed for the settlement of future medical benefits once the injured has reached maximum medical improvement and when it serves the best interest of the injured worker and insurer. In five years, ERD has approved 1,650 of these types of settlements. ERD too, has implemented an independent medical review process for disputes regarding the guidelines and finalized procedures for receiving and evaluating petitions from injured workers whose medical benefits are subject to the 60 month closure.

Another pre-reform cost driver identified was Montana's high incidence rate, or how often our workers are injured on the job. Although declining, Montana's incidence rate is still 141% of the national average. Safety in the workplace continues to be a key driver that must be addressed. Staff in ERD's Safety and Health Bureau have many initiatives that are geared to providing safety training to Montana employers and workers. In FY 2015, the bureau provided 270 consultative visits to public and private sector employers. The bureau annually hosts four SafetyFestMT events across Montana to provide safety education at no cost to over 1,000 Montana workers. Also in FY 2015, the Safety Bureau held 160 OSHA 10-Hour classes for 1,374 students across the state.

There is still much work to be accomplished to improve safety in Montana. The Labor Management Advisory Council (LMAC), continues to focus on ways to improve safety in our Montana workplaces. LMAC provides a forum where leaders from both management and labor come together to discuss important issues impacting workers' compensation, occupational safety and health, and to provide recommendations to myself and the Governor on how best to approach positive system wide changes. Improving safety will reduce injuries bringing workers home to their families safely and ultimately reducing costs to our Montana employers.

There is more to share, but I trust you will find the enclosed report valuable in developing a more comprehensive understanding of many important parts of Montana's workers' compensation system.



Sincerely,

A handwritten signature in blue ink that reads "Pam Bucy". The signature is fluid and cursive.

Pam Bucy, Commissioner



Montana Department of
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TABLE OF CONTENTS

Workers' Compensation Highlights	V
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1 MONTANA WORKERS' COMPENSATION SYSTEM

Declaration of Public Policy	3
Labor-Management Advisory Council	4
Insurance Coverage Requirements	5
Life of a Claim	7
Exhibit 1.1 • Highlights of a Compensable Wage Loss Claim	7
Workers' Compensation Market	10
Exhibit 1.2 • Gross Annual Payroll - Self Insured • By Calendar Year	10
Exhibit 1.3 • Premium Market Share - Private Insured and State Fund • By Calendar Year and Plan	11
Exhibit 1.4 • Premium Market Share - Private Insured and State Fund • By Calendar Year and Plan	11

2 CLAIM STATISTICS

Incidence Rates	15
Exhibit 2.1 • Injury and Illness Incidence Rates - CY10 to CY14 • By Calendar Year	15
Claim Incidence Rates by County	16
Exhibit 2.2 • Claim Incidence Rate and Number of Claims - FY15 • By County	16
Claims by Plan Type	17
Exhibit 2.3 • Reported Claims • By Plan Type and Fiscal Year of Injury	17
Exhibit 2.4 • Reported Claims • By Plan Type and Fiscal Year of Injury	17
Injured Worker Characteristics	18
Exhibit 2.5 • Reported Claims • By Claimant Age at Time of Injury and Fiscal Year of Injury	18
Exhibit 2.6 • Reported Claims • By Claimant Age at Time of Injury and Fiscal Year of Injury	18
Exhibit 2.7 • Reported Claims - FY15 • By Industry	19
Exhibit 2.8 • Reported Claims • By Industry and Fiscal Year of Injury	20
Exhibit 2.9 • Reported Claims - FY15 • By Cause of Injury	21
Exhibit 2.10 • Reported Claims • By Cause of Injury and Fiscal Year of Injury	21
Exhibit 2.11 • Reported Claims - FY15 • By Industry and Cause of Injury	22
Exhibit 2.12 • Reported Claims - FY15 • By Nature of Injury	23
Exhibit 2.13 • Reported Claims • By Nature of Injury and Fiscal Year of Injury	23
Exhibit 2.14 • Reported Claims - FY15 • By Part of Body	24
Exhibit 2.15 • Reported Claims • By Part of Body and Fiscal Year of Injury	24
Insurer Denial of Claims	25
Exhibit 2.16 • Insurer Denial of Claims • By Fiscal Year of Injury	25
Exhibit 2.17 • Insurer Denial of Claims • By Reason of Denial and Fiscal Year of Injury	25

3 BENEFITS

Total Benefits	29
Exhibit 3.1 • Total Benefits Paid • By Plan Type and Fiscal Year of Payment	29
Exhibit 3.2 • Total Benefits Paid • By Plan Type and Fiscal Year of Payment	29
Exhibit 3.3 • Medical Payments • By Plan Type and Fiscal Year of Payment	30
Exhibit 3.4 • Medical Payments • By Plan Type and Fiscal Year of Payment	30
Exhibit 3.5 • Indemnity Payments • By Plan Type and Fiscal Year of Payment	31
Exhibit 3.6 • Indemnity Payments • By Plan Type and Fiscal Year of Payment	31
Insurer Miscellaneous Expenses	32
Exhibit 3.7 • Insurer Miscellaneous Expenses • By Plan Type and Fiscal Year	32
Exhibit 3.8 • Insurer Miscellaneous Expenses • By Plan Type and Fiscal Year	32
Benefit Distribution	33
Exhibit 3.9 • Total Benefits Paid on Indemnity Claims • By Benefit Type and Fiscal Year of Injury	33
Exhibit 3.10 • Indemnity Benefits Paid • By Benefit Type and Fiscal Year of Injury	33
Exhibit 3.11 • Medical Dollars on Indemnity Claims • By Type of Medical Provider and Fiscal Year of Injury	34
Exhibit 3.12 • Total Benefits Paid on Indemnity Claims • By Cause of Injury and Fiscal Year of Injury	34
Exhibit 3.13 • Total Benefits Paid on Indemnity Claims • By Nature of Injury and Fiscal Year of Injury	35
Exhibit 3.14 • Total Benefits Paid on Indemnity Claims • By Part of Body and Fiscal Year of Injury	35
Exhibit 3.15 • Distribution of Wage Loss Benefits Paid - FY11 to FY15	36
Exhibit 3.16 • Distribution of Medical Benefits Paid - FY11 to FY15	36

TABLE OF CONTENTS

Temporary Disability Paid Duration	37
Exhibit 3.17 • Temporary Disability Paid Duration – 1 Year Maturity • By Plan Type and Fiscal Year of Injury	37
Exhibit 3.18 • Temporary Disability Paid Duration (weeks) – 1 Year Maturity • By Plan Type and Fiscal Year of Injury	37
Exhibit 3.19 • Temporary Disability Paid Duration – 3 Year Maturity • By Plan Type and Fiscal Year of Injury	38
Exhibit 3.20 • Temporary Disability Paid Duration (weeks) – 3 Year Maturity • By Plan Type and Fiscal Year of Injury	38
Exhibit 3.21 • Distribution of Temporary Disability Paid Duration – 3-Year Maturity • By Weeks	39
Settlement Dollars	40
Exhibit 3.22 • Average Settlement Amount • By Plan Type and Fiscal Year of Injury	40
Exhibit 3.23 • Settlement Amounts for Settled Claims • By Plan Type and Fiscal Year of Injury	40
Exhibit 3.24 • Average Settlement Amount • By Fiscal Year of Decision	41
Exhibit 3.25 • Settlement Amounts for Claims Settled • By Plan Type and Fiscal Year of Decision	41
Settlement of Medical Benefits for Best Interest	42
Exhibit 3.26 • Number of Settlements for Best Interest • By Plan Type and Fiscal Year of Decision	42
Exhibit 3.27 • Total Medical Settlement Amounts for Claims Settled for Best Interest • By Plan Type and Fiscal Year of Decision	43
Exhibit 3.28 • Settlement Distribution of Medical for Claims Settled for Best Interest • FY11 to FY15	43
Injured Worker Attorney Fees	44
Exhibit 3.29 • Average Attorney Legal Fees • By Fiscal Year of Injury	44
Exhibit 3.30 • Total Attorney Legal Fees • By Plan Type and Fiscal Year of Injury	44
Exhibit 3.31 • Attorney Fees from Claimant Settlements • By Fiscal Year of Settlement	45
Insurer Legal Expenses	46
Exhibit 3.32 • Average Insurer Legal Expenses per Claim • By Plan Type and Fiscal Year of Injury	46
Exhibit 3.33 • Total Insurer Legal Expenses • By Plan Type and Fiscal Year of Injury	46

4 DISPUTE RESOLUTION

Mediation	47
Exhibit 4.1 • Claims in Mediation • By Plan Type and Fiscal Year of Receipt	47
Exhibit 4.2 • Claims in Mediation • By Plan Type and Fiscal Year of Receipt	47
Exhibit 4.3 • Percent of Mediation Petitions Resolved • By Fiscal Year of Receipt	48
Exhibit 4.4 • Mediation Petitions • By Fiscal Year of Receipt	48
Exhibit 4.5 • Mediation Petitions • By Benefit Issue and Fiscal Year of Receipt	49
Exhibit 4.6 • Mediation Petitions • By Top 5 Benefit Issues and Fiscal Year of Receipt	49
Contested Case Hearings	50
Exhibit 4.7 • Petitions Received by the Office of Administrative Hearings • By Plan Type and Fiscal Year	50
Workers' Compensation Court	51
Exhibit 4.8 • Percent of Petitions Received by the WCC – FY15 • By Case Type	51
Exhibit 4.9 • Petitions Received by the WCC • By Case Type and Fiscal Year of Receipt	52
Exhibit 4.10 • Decisions by the WCC • By Fiscal Year of Receipt	52
Exhibit 4.11 • Full and Final Compromise Settlements by the WCC • By Case Type and Fiscal Year of Receipt	52
Significant Workers' Compensation Cases	53
Supreme Court Decisions On Workers' Compensation	55

5 DEPARTMENT ADMINISTERED PROGRAMS

Workers' Compensation System Administration	59
Organizational Charts	61
Exhibit 5.1 • Montana Department of Labor & Industry	61
Exhibit 5.2 • Employment Relations Division	62
Workers' Compensation Assessments as Expended	63
Exhibit 5.3 • Workers' Compensation Assessments as Expended • By Fiscal Year of Expenditure	63
Subsequent Injury Fund	64
Exhibit 5.4 • SIF Payments and Dollars Assessed • By Plan Type and Fiscal Year	64
Exhibit 5.5 • SIF Certified Workers • By Fiscal Year	65
Uninsured Employers' Fund	66
Exhibit 5.6 • Uninsured Employers' Fund - Financial Activity • By Fiscal Year of Payment	66
Exhibit 5.7 • Uninsured Employers' Fund - Financial Activity • By Fiscal Year of Payment	67
Exhibit 5.8 • UEF Medical and Indemnity Payments • By Fiscal Year of Payment	67
Exhibit 5.9 • UEF Medical and Indemnity Payments • By Fiscal Year of Payment	67
Construction Contractor Registration	68
Exhibit 5.10 • Registered Construction Contractor Applications • By Fiscal Year	68

Independent Contractor Exemption Certificates	69
Exhibit 5.11 • Independent Contractor Exemptions • By Fiscal Year	70
Exhibit 5.12 • Independent Contractor Exemptions Applications – FY15 • By Industry	70
Professional Employer Organizations.....	71
Exhibit 5.13 • Licensed Professional Employer Organizations • By Fiscal Year	71
Exhibit 5.14 • Number of Active PEO Employers • By Fiscal Year.....	72
Exhibit 5.15 • Leased Employees - Average Quarterly Count • By Fiscal Year.....	72
Safety & Health.....	73
Exhibit 5.16 • Public Employer Consultation Activities – By Fiscal Year	73
Exhibit 5.17 • Private Employer Consultation Activities – By Federal Fiscal Year	73
Stay at Work/Return to Work.....	75
Exhibit 5.18 • Stay at Work/Return to Work Program Outcomes • By Fiscal Year	75
Claims Examiner Certification.....	76
Exhibit 5.19 • Claims Examiner Certification Activities • By Fiscal Year	76
Independent Medical Reviews	77
Exhibit 5.20 • Total Independent Medical Reviews • By Resolution and Fiscal Year	77
Exhibit 5.21 • Total Independent Medical Reviews • By Resolution and Fiscal Year	78
Exhibit 5.22 • Independent Medical Reviews • By Type of Requestor and Fiscal Year.....	78
Five-Year Closure of Medical Benefits	79

6 APPENDICES

Definitions	83
Data Sources.....	90
Resources	91

WORKERS' COMPENSATION HIGHLIGHTS

Montana and other states across the nation monitor workers' compensation medical costs, injury and illness rates, system efficiency, safety awareness, and other aspects of the system, in an effort to reduce costs to employers, provide the best and appropriate care to injured workers, and reduce or eliminate work place injuries.

This report will provide the reader with an in-depth assessment of Montana's workers' compensation system, including system updates, claims and benefits characteristics, dispute resolution outcomes, and Department programs and their functions.

WORKERS' COMPENSATION CLAIM HIGHLIGHTS FOR FY15:

- Reported claims decreased 2.2% to 25,407 claims;
- The BLS injury and illness incidence rate for Montana decreased 4.3% from CY13 to CY14. Montana's CY14 rate was still 141% of the national average;
- The most frequent causes of injury were Strains (32%) and Falls, Slips, and Trips (21%);
- The most frequent natures of injury were Sprains and Ruptures (42%) and Cuts and Abrasions (21%);
- The most frequent body parts injured were Upper Extremities (32%) and the Back (17%);
- Total benefits paid increased 5.1% from FY14 to FY15. Medical benefits paid increased 7.8%, which could be due to the increase in settlement of medical benefits. Indemnity benefits paid increased 0.2%;
- Medical benefits comprised 62% of payments in FY15 indemnity claims;
- Temporary disability paid duration (1-year maturity) decreased from 16.1 weeks for FY13 injuries to 14.5 weeks for FY14 injuries; and
- 610 settlements of medical benefits for "best interest" were approved, an increase of 59.3% from FY14.

EMPLOYMENT RELATIONS DIVISION ACTIVITIES FOR FY15:

- Organized and held the annual Governor's Conference on Workers' Compensation and Occupational Safety and Health in Missoula, attended by 382 stakeholders;
- Made presentations on workers' compensation, safety, and stay at work/return to work at Assistance for Business Clinics across the state;
- Held SafetyFests in Havre (154 attendees), Kalispell (422 attendees), Lewistown (282 attendees), and Butte (205 attendees);
- Organized and held the Annual Informational Meetings for Montana Workers' Compensation Stakeholders in May and June of 2015. Meetings were held in Missoula, Great Falls, Billings and Helena;
- Provided staff support and research for the Labor-Management Advisory Council (LMAC);
- Published the "FY14 Workers' Compensation Annual Report";
- Received and began implementing an occupational health and injury surveillance grant from the National Institutes for Occupational Safety and Health (NIOSH);
- Participated in the International Association of Industrial Accident Boards and Commissions (IAIABC) committees, including: EDI Council, EDI Claims, Research & Standards, Medical Issues, Regulations, and Disability Management; and
- Participated in the National Institute for Occupational Safety and Health (NIOSH) and Council of State and Territorial Epidemiologists (CSTE) health surveillance committees.

Section

1

MONTANA WORKERS' COMPENSATION SYSTEM

- Declaration of Public Policy
- Labor-Management Advisory Council
- Insurance Coverage Requirements
- Life of a Claim
- Workers' Compensation Market



DECLARATION OF PUBLIC POLICY

It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage loss and medical benefits to a worker suffering from a work-related injury or disease. Wage loss benefits are not intended to make an injured worker whole, but are intended to assist a worker at a reasonable cost to the employer. Within that limitation, the wage loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

It is the intent of the legislature to assert that a conclusive presumption exists which recognizes that a holder of a current, valid independent contractor exemption certificate issued by the Department is an independent contractor if the person is working under the independent contractor exemption certificate. The holder of an independent contractor exemption certificate waives the rights, benefits, and obligations of workers' compensation unless the person elects personal coverage under one of Montana's three options for workers' compensation insurance.

A worker's removal from the workforce because of a work-related injury or disease has a negative impact on the worker, the worker's family, the employer, and the general public. Therefore, an objective of the workers' compensation system is to return a worker to work as soon as possible after the worker has suffered a work-related injury or disease.

Montana's workers' compensation and occupational disease insurance system is intended to be primarily self-administering. Claimants should be able to speedily obtain benefits, and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

Title 39, chapter 71, MCA must be construed according to its terms and not liberally in favor of any party.

The legislature's intent regarding stress claims, often referred to as mental-mental claims and mental-physical claims, is not to provide for compensation under Montana's workers' compensation and occupational disease laws. The legislature recognizes that these claims are difficult to objectively verify and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories

of stress claims and that stress claims have presented economic problems for certain other jurisdictions. In addition, not all injuries are compensable under the present system, and it is within the legislature's authority to define the limits of the workers' compensation and occupational disease system.
(§39-71-105, MCA)

The Labor-Management Advisory Council (LMAC) is commissioned by the Department of Labor and Industry to provide a structure for organized discussion of workers' compensation policy and monitor the effectiveness of existing reforms. LMAC gathers information, furnishes advice, and makes recommendations on workers' compensation to the Commissioner in order to improve the workers' compensation system in Montana. LMAC is chaired by the Lieutenant Governor and is composed of five employer and five labor representatives.

LMAC's activities in 2014 focused on evaluating system needs and improvements and creating legislative proposals for the 2015 Legislature. The work of the LMAC Safety Committee, composed of representatives from the Montana University System, the Office of Public Instruction, Montana State Fund, and the Montana Chamber of Commerce, resulted in proposing enabling legislation for a state-based OSHA program. In addition, LMAC discussed the impact of reduced claims and benefits on the funding mechanism for state-administered services and drafted changes for legislative approval.

LMAC supported five bills during the 2015 Legislature, three of which passed. HB 90 made several system changes, including decreasing medical fee schedule updates from three times per year to one each year. SB 4 authorized the appointment of interim workers' compensation judges during a vacancy. SB 259 increased the workers' compensation assessment cap from up to 3% of benefits paid in the preceding year to up to 4% and created a separate occupational health and safety administration assessment with a cap at up to 2%. LMAC held weekly teleconference meetings during the session.

The LMAC 2013 charter expired on December 31, 2015. On March 25, 2016 LMAC was reappointed with a term to expire or be renewed by July 1, 2017 with the same purpose as previous versions of LMAC with the additional focus of addressing and reducing the high injury rates in Montana.

LMAC is currently developing a work plan and is planning to meet monthly throughout 2016 in preparation for the 2017 legislative session. LMAC meetings are open to the public and public comment is encouraged. For more information on the council, visit: www.mtlmac.com.

INSURANCE COVERAGE REQUIREMENTS

If you are an employer or an employee, the Workers' Compensation and Occupational Disease Acts apply. An employer who has an employee in service under any appointment or contract of hire, expressed or implied, oral or written, must elect to be bound by the provisions of compensation Plan 1 (self-insured), Plan 2 (private insured), or Plan 3 (Montana State Fund).

This information is intended to be descriptive. It is not all inclusive, nor is it intended to be used for legal determination of the mandatory coverage requirements.

Please contact The Employment Relations Division at 406-444-0564, or your workers' compensation insurer, concerning coverage requirements and/or excluded or exempted employments.

EXTRATERRITORIAL EXCLUSION

Employer option for extraterritorial coverage §39-71-442, MCA: (1) Notwithstanding §39-71-118(8)(a) an employee of an employer in this state who is employed by the employer to work solely in North Dakota, and who is required by the laws of that state to be covered for workers' compensation purposes while working in that state, is not considered to be an employee in this state covered under Title 39, chapter 71, during any time that the employer maintains workers' compensation coverage for the employee in North Dakota. For purposes of this section, "work solely in North Dakota" means the employee does not perform job duties in Montana and coverage is required by the state of North Dakota. Travel that is commuting to and from a job site in North Dakota from a location in Montana does not constitute performing job duties in Montana even if the employer pays for all or a portion of the costs of travel or if the worker is paid for the travel time.

OTHER EXCLUSIONS

The Workers Compensation Act may exclude from the definition of employee the services listed below:

- Volunteers;
- Volunteers at recreational facilities receiving no compensation other than meals, lodging, or the use of the recreational facilities;
- Licensed foster parents providing care for no more than 6 foster children without wage compensation; and
- Farm-owner occasionally assisting his or her neighboring farmers.

(§39-71-118, MCA)

EMPLOYMENTS EXEMPTED

The Workers' Compensation Act may not apply to the employments listed below:

- Household or domestic employment;
- Casual employment;
- Dependent member of an employer's family for whom an exemption may be claimed by the employer under the Federal Internal Revenue Code;
- Sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company;
- Real estate, securities or insurance salesperson paid solely by commission without a guarantee of minimum earnings;
- A direct seller;
- Employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States;
- A person performing services in return for aid or sustenance only, except employment of search and rescue volunteers;
- Employment with a railroad engaged in interstate commerce, except railroad construction work;
- An official, including a timer, referee, umpire or judge, at a school amateur athletic event;
- A person performing services as a newspaper carrier or freelance correspondent if acknowledged in writing that the services are not covered;
- Cosmetologist's services and barber's services;
- A person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the reservation;
- A jockey who is performing under a license issued by the Board of Horse Racing, from the time the jockey reports to the scale room prior to a race, through the time weighed out, and has acknowledged in writing that the jockey is not covered while performing services as a jockey;
- Trainer, assistant trainer, exercise person or pony person who is providing services under the Board of Horse Racing while on the grounds of a licensed race meet;
- An employer's spouse;
- A petroleum land professional;

INSURANCE COVERAGE REQUIREMENTS

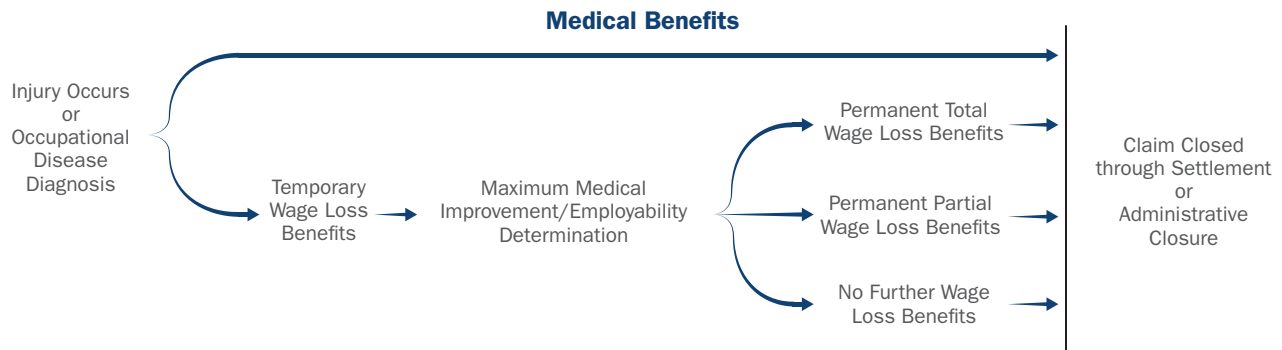
- An officer of a quasi-public or a private corporation or manager of a manager-managed limited liability company;
- A person who is an officer or a manager of a ditch company;
- Service performed by an ordained, commissioned or licensed minister of a church;
- Providers of companionship services or respite care, if a family member or legal guardian employs the person providing care;
- A person performing services of an intrastate or interstate common or contract motor carrier when hired by an individual or entity who meet the definition of a broker or freight forwarder;
- A person who is not an employee or worker in Montana;
- Independent contractors who are working under a current, valid, independent contractor exemption certificate from the Department;
- An athlete employed by or on a team or sports club engaged in a contact sport; and
- A musician performing under a written contract.

(§39-71-401, MCA)

LIFE OF A CLAIM

Exhibit 1.1

Highlights of a Compensable Wage Loss Claim



Workplace injuries and illnesses do happen and when a Montana employee files a workers' compensation claim, the process that is followed and the actions taken are directed by statute and administrative rule. Medical and indemnity (or wage loss) benefits due an injured worker are determined by the statutes in effect at the time of injury. The key requirements and benefits of a recent, typical Montana workers' compensation claim are generally described below. The benefits payable on a claim depend on the specific facts of each claim, and the statutes in effect on the date of injury.

REPORTING REQUIREMENTS

When an injury occurs, the injured worker or their authorized representative has 30 days from the date of injury to notify the employer or the insurer (§39-71-603, MCA).

The employer then has 6 days from the date of notification of an accident, injury or occupational disease to report the injury to the insurer or the DLI (§39-71-307, MCA).

The claimant or the claimant's representative has 12 months from the date of injury to file a claim, (§39-71-601(1), MCA), or 12 months from the date the claimant knew or should have known of an occupational disease (§39-71-601(3), MCA).

The claim filing time can be extended up to an additional 24 months if it can be proven that the worker was somehow prevented from filing the claim because of something the employer or the insurer said or did, or if the injury was latent or the worker lacked knowledge of disability (§39-71-601(2), MCA).

The signed claim form or First Report of Injury and Occupational Disease (FROI) (form ERD-991) can be submitted to the employer or sent directly to the insurer or the DLI (§39-71-601(1), MCA).

The insurer shall accept or deny a claim within 30 days of receipt of a signed claim for compensation by the claimant or the claimant's representative (§39-71-606(1), MCA). If the claim is denied, the insurer shall provide a written statement of the reasons for denial, along with a written explanation of the appeal process (§39-71-107(6), MCA).

If further investigation is needed before the insurer accepts liability beyond the 30 day limitation for a decision on compensability, the insurer may, with proper written notice, pay wage loss and/or medical benefits without such payment being an indication of admission of liability or waiver of any right of defense (§39-71-608 and §39-71-615, MCA).

Prompt claims handling practices are necessary to provide appropriate service to injured workers, employers, and providers. All workers' compensation claims must be examined by a claims examiner located in Montana. An insurer shall provide a claimant a written notice advising the claimant when a change is made to the claims examiner handling the claim, including the name and contact information of the new claims examiner (§39-71-107(6)(d), MCA). An insurer that uses a third party claim administrator to provide the insurer with claim examination services shall notify the department in writing of a change of the claim administrator at least 14 days in advance of the change. The department may assess a penalty for failure to comply (§39-71-107(1), (2), and (4), MCA).

MEDICAL BENEFITS

For dates of loss prior to July 1, 2011, in addition to using an emergency room or urgent care center, the claimant has the right to select the first treating physician (within the treating physician definition). The insurer must then approve changes of treating physicians. The insurer has the right to deny payment for any unauthorized medical referrals and treatments (§39-71-1101, MCA, and ARM 24.29.1510).

For dates of loss July 1, 2011 and thereafter, the claimant may choose the treating physician for initial treatment. Any time after acceptance of liability the insurer may designate a different treating physician (within the treating physician definition) or approve claimant's choice of the treating physician. The designated treating physician agrees to be responsible for coordination of care, timely workability determinations, treatment under the Utilization and Treatment Guidelines (U&T Guidelines) or prior authorization from the insurer, and referral to other health care providers.

Medical providers bill the insurer directly. Payment is made according to a fee schedule (§39-71-704(2) and (3), MCA). The medical provider must accept the fee scheduled reimbursement as payment in full, and the claimant is not responsible for any balance.

The insurer is responsible for reasonable primary medical services, for conditions that are a direct result of the compensable injury or Occupational Disease (OD). An insurer is not responsible for treatment or services outside the U&T Guidelines, unless authorized by the insurer prior to the treatment or procedure (§39-71-704(1) and (3), MCA).

For dates of loss prior to July 1, 2011, the claimant is responsible for payment of: (1) unauthorized treatment, (2) medical care not related to the injury, (3) medical services if treatment is not received for 60 months, (4) secondary medical services and palliative or maintenance care unless specifically covered, and (5) medical procedures specifically excluded (§39-71-704, MCA and ARM 24.29.1401).

For dates of loss of July 1, 2011 and thereafter, the claimant is responsible for payment of: (1) medical care not related to the injury, (2) medical services provided 60 months or more after the date of injury or diagnosis of an OD unless medical benefits are reopened, or the claimant is deemed permanently totally disabled, (3) secondary medical services and palliative or maintenance care

unless specifically covered, and (4) medical procedures specifically excluded (§39-71-704, §39-71-717, MCA, and ARM 24.29.1401).

For dates of loss prior to July 1, 2011, medical benefits terminate when not used for a period of 60 consecutive months. The insurer may not be required to furnish palliative or maintenance care after the claimant has achieved Maximum Medical Improvement (MMI) (§39-71-704, MCA).

For dates of loss July 1, 2011 and thereafter, medical benefits terminate 60 months after the date of injury or the date of diagnosis of an OD, unless the claimant is deemed permanently totally disabled, or the medical benefits are reopened. A worker may request reopening of terminated benefits within 5 years of termination. The insurer may not be required to furnish palliative or maintenance care after the claimant has achieved MMI (§39-71-704 and §39-71-717, MCA).

INDEMNITY OR WAGE LOSS BENEFITS

The first 4 days or 32 hours (whichever is less) of total wage loss is not compensable. For dates of injury on or after July 1, 2011, if the worker is totally disabled and unable to work in any capacity for 21 days or longer, compensation must be paid retroactively to the first day of total wage loss. Temporary Total Disability (TTD) benefits are based on 66 2/3% of the claimant's average weekly gross wages, subject to a maximum of the state's average weekly wage, and are paid bi-weekly until the claimant returns to work or has reached MMI (§39-71-701 and §39-71-740, MCA).

A claimant cannot use sick leave and receive wage loss benefits at the same time except each day of sick leave may be counted as one day toward the 4-day waiting period. If the claimant becomes entitled to receive retroactive compensation benefits, the claimant may either repay the employer for the sick leave received, or waive the retroactive payment. Receiving vacation leave or paid time off, other than sick leave, may not affect the claimant's eligibility for TTD benefits. (§39-71-736, MCA).

If prior to attaining MMI and due to medical restrictions, the claimant returns to work at less than the wages received at the time of injury, they may be entitled to Temporary Partial Disability (TPD) benefits. TPD is paid until the claimant returns to work without a wage-loss or reaches MMI (§39-71-712, MCA).

LIFE OF A CLAIM

If after reaching MMI, the claimant has a residual impairment greater than zero and a wage loss, the insurer is required to pay out the Permanent Partial Disability (PPD) liability bi-weekly, unless the claimant requests a lump sum payment (§39-71-703 and §39-71-741, MCA).

PPD benefits may be payable, based on extent of the impairment, the claimant's age, and education, wage-loss and work capacity restrictions. The benefit amount is determined by the specifics of each individual case, and the statutory language in effect on the date of injury (§39-71-703, MCA).

If the worker is precluded from returning to the job they held at the time of injury and suffers an actual wage loss or has an impairment of 15% or greater, the worker is eligible for vocational rehabilitation services.

In these situations, the insurer designates a vocational rehabilitation provider and vocational rehabilitation services are provided to the claimant as soon as possible. If a rehabilitation plan is established which indicates some type of retraining, the claimant may be eligible to receive monies for tuition, fees, books and other reasonable and necessary retraining expenses. The worker may also receive up to 104 weeks of bi-weekly benefit payments based on the TTD rate (§39-71-1006, MCA). Financial assistance may also be available for reasonable travel and relocation for training and job-related expenses, subject to a maximum amount of \$4,000 (§39-71-1025, MCA).

If the claimant is deemed to be Permanently Totally Disabled (PTD), benefits can continue until the claimant reaches retirement age (§39-71-710, MCA).

WORKERS' COMPENSATION MARKET

Montana employers have three options for securing workers' compensation coverage for their employees. Employers that meet the Department's financial requirements may opt to become self-insured (Plan 1), either individually or by joining with other employers in their industry to form a self-insured group. Employers may also obtain coverage with private insurance companies (Plan 2) in the voluntary market. Finally, employers can insure through Montana State Fund (Plan 3). Montana State Fund's role as the guaranteed market provides assurance that all Montana employers can provide workers' compensation insurance coverage for their employees.

During CY15, Montana had 24 individual self-insured employers, 3 private groups with 111 member employers, and 5 public groups with 426 member employers. In 2015, there were 201 private carriers that reported premiums to the Department. That compares to 202 private carriers in 2014.

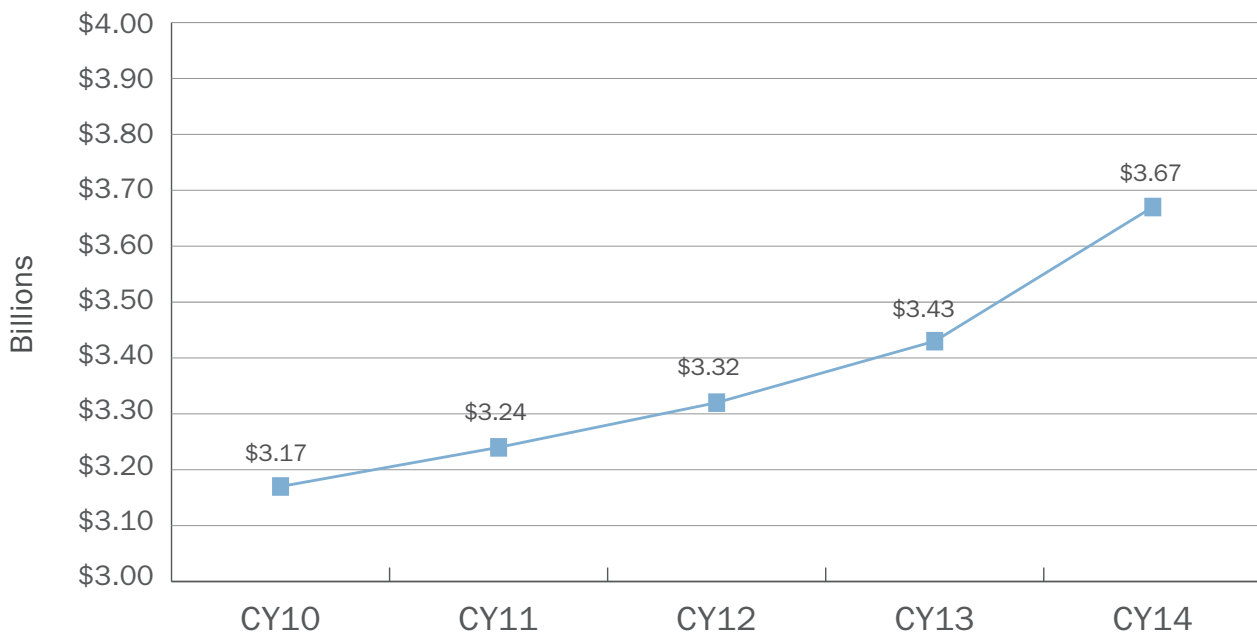
Since self-insured employers typically do not report premium, there is not an "apples to apples" means by which to compare all three Plans' share of the Montana workers' compensation market. The reported payroll for self-insured employers has increased 15.9% since CY10. (CY14 is the most recent calendar year for which payroll data are available.)

The premium for private insurers and Montana State Fund is compared in Exhibits 1.3 and 1.4 on the next page. The total premium reported for calendar year 2015 by both Plans increased 1.5% from 2014. Montana State Fund reported premium increased for the third straight year.

Exhibit 1.2

Gross Annual Payroll - Self Insured

By Calendar Year



WORKERS' COMPENSATION MARKET

Exhibit 1.3

Premium Market Share – Private Insured and State Fund By Calendar Year and Plan

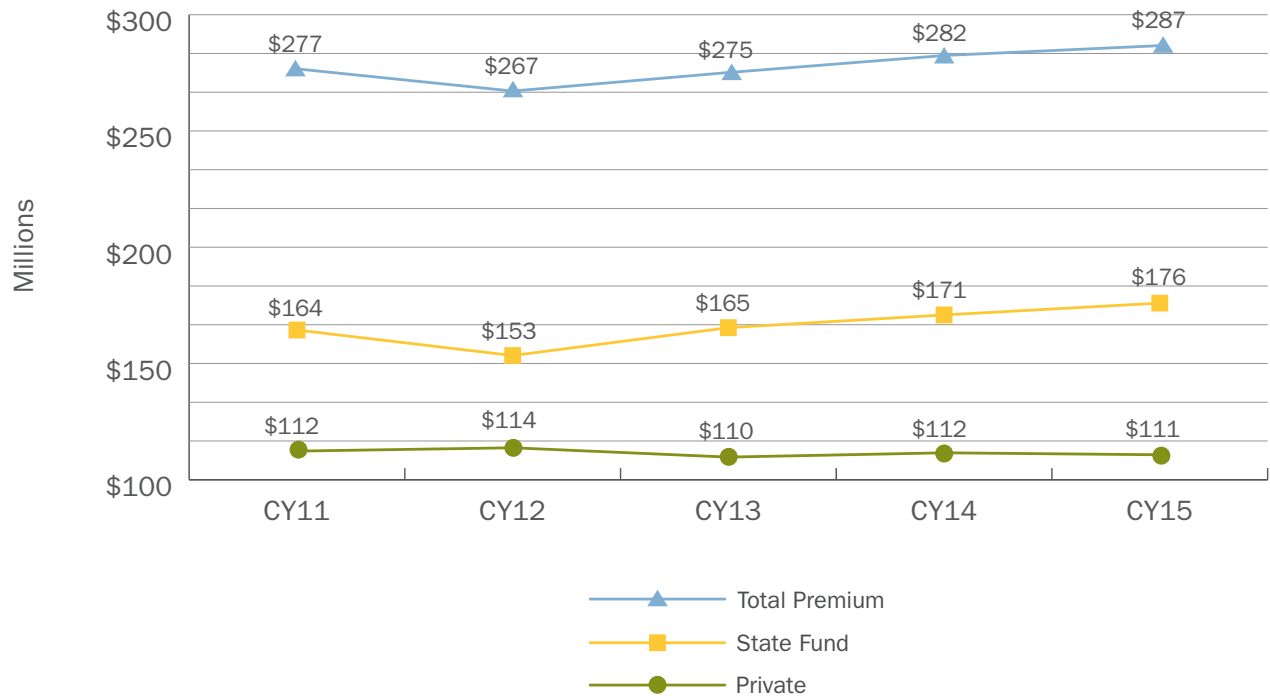


Exhibit 1.4

Premium Market Share – Private Insured and State Fund By Calendar Year and Plan

	CY11		CY12		CY13		CY14		CY15	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Private	\$112,318,868	41%	\$113,744,533	43%	\$109,737,052	40%	\$111,583,813	40%	\$110,739,098	39%
State Fund	\$164,389,649	59%	\$153,423,174	57%	\$165,398,283	60%	\$170,881,461	60%	\$175,962,428	61%
Total Premium	\$276,708,517	100%	\$267,167,707	100%	\$275,135,335	100%	\$282,465,274	100%	\$286,701,526	100%

Section

2

CLAIM STATISTICS

- Incidence Rates
- Claim Incidence Rates by County
- Claims by Plan Type
- Injured Worker Characteristics
- Insurer Denial of Claims



INCIDENCE RATES

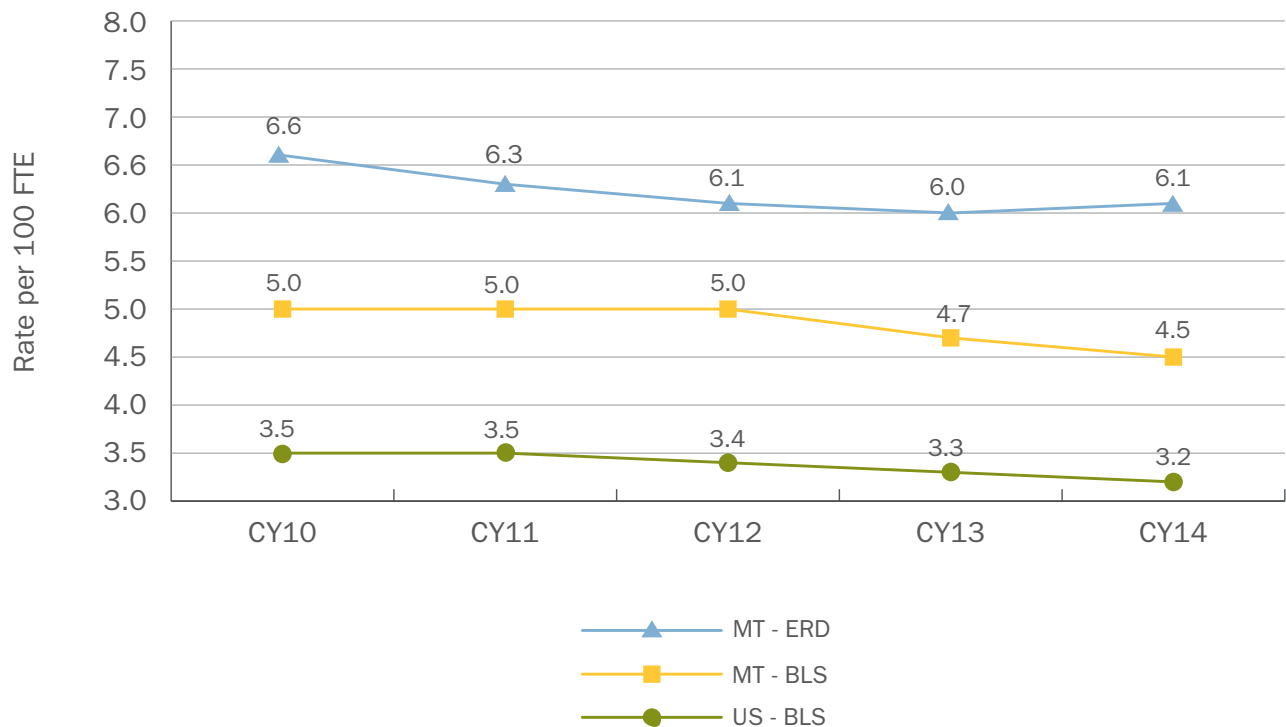
The Bureau of Labor Statistics (BLS) calculates national and Montana incidence rates based on the annual Survey of Occupational Injuries and Illnesses. ERD calculates incidence rates from a census of claim counts, based on First Reports of Injury reported to ERD.

Montana's incidence rates, as calculated by both BLS and ERD, remain significantly higher than the BLS calculated national average. The BLS incidence rate for Montana in CY14 was 141% of the national average. The BLS incidence rate for Montana decreased for the second year in a row, with a 4.3 percent decline from CY13 to CY14.

Exhibit 2.1

Injury and Illness Incidence Rates – CY10 to CY14

By Calendar Year



CLAIM INCIDENCE RATES BY COUNTY

County-level claim incidence rates were calculated by dividing the number of reported claims in each county by the number of employees in the county. Injury location is not always reported so the number of reported claims per county may be underestimated. The state-level rate was calculated using all reported claims in Montana. Employment data is from the Quarterly Census of

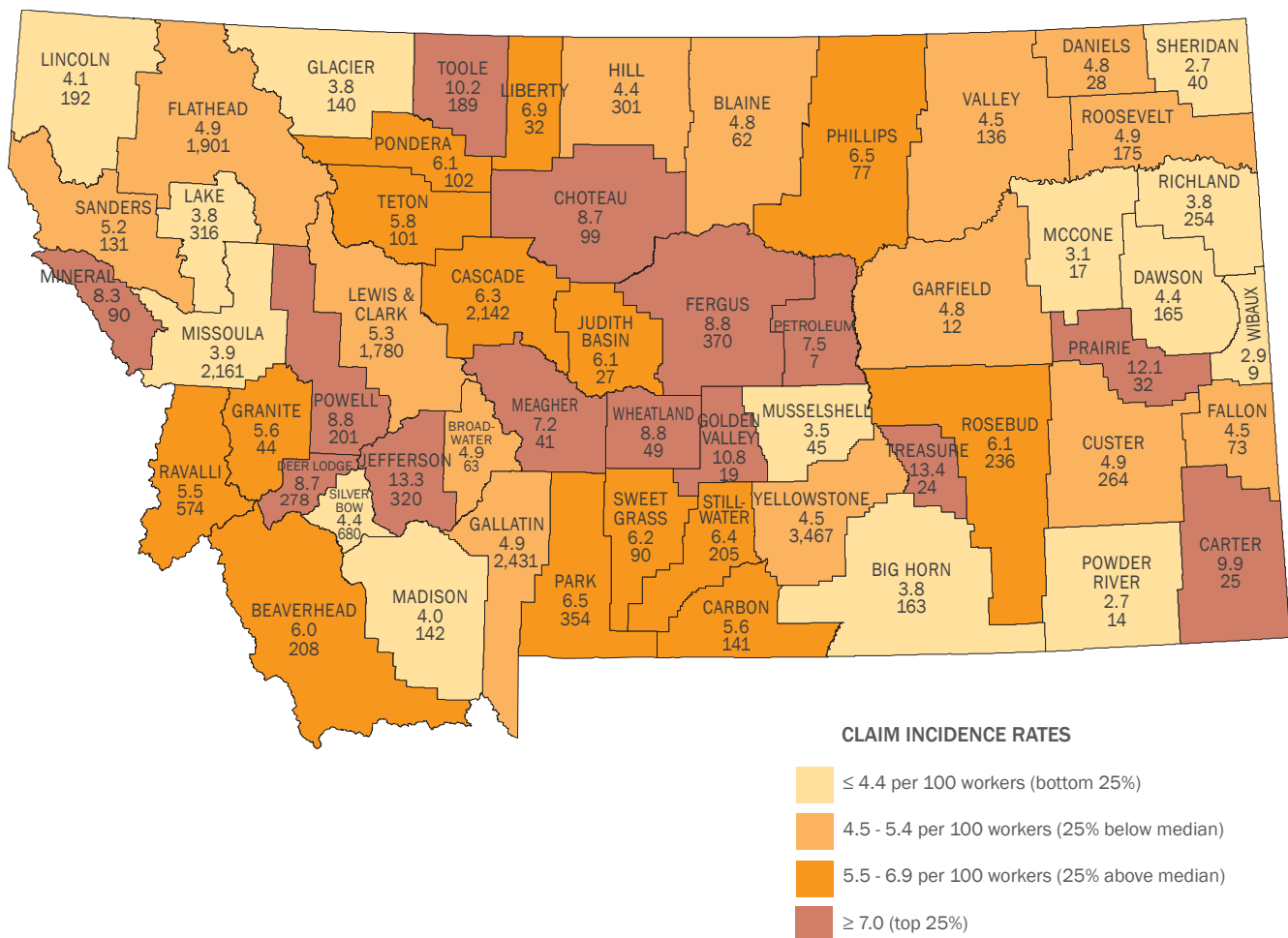
Employment and Wages report from the Bureau of Labor Statistics. Some limitations of employment data are that it does not include federal employees, military, self-employed, or small farms (fewer than 11 employees).

The state incidence rate was 6.0 per 100 employees in FY15, a slight decrease from FY14. The incidence rate decreased in 22 counties.

Exhibit 2.2

Claim Incidence Rate and Number of Claims – FY15

By County



CLAIMS BY PLAN TYPE

Exhibit 2.3

Reported Claims

By Plan Type and Fiscal Year of Injury

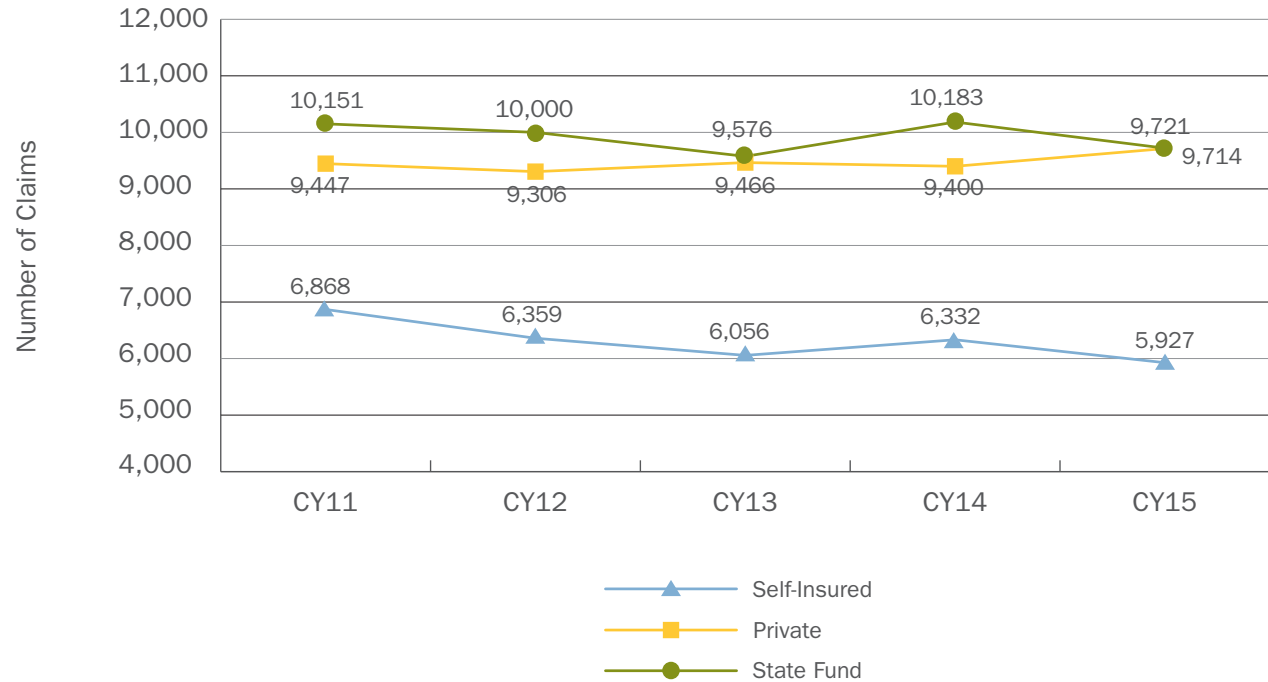


Exhibit 2.4

Reported Claims

By Plan Type and Fiscal Year of Injury

	FY11		FY12		FY13		FY14		FY15	
Plan Type	Count	%	Count	%	Count	%	Count	%	Count	%
Self-Insured	6,868	26%	6,359	25%	6,056	24%	6,332	24%	5,927	23%
Private	9,447	36%	9,306	36%	9,466	38%	9,400	36%	9,714	38%
State Fund	10,151	38%	10,000	39%	9,576	38%	10,183	39%	9,721	38%
UEF ¹	38	0%	49	0%	34	0%	42	0%	44	0%
NOC ²	7	0%	10	0%	13	0%	10	0%	1	0%
Total	26,511	100%	25,724	100%	25,145	100%	25,967	100%	25,407	100%

¹UEF - Uninsured Employers' Fund

²NOC - Not otherwise classified

INJURED WORKER CHARACTERISTICS

Exhibit 2.5

Reported Claims

By Claimant Age at Time of Injury and Fiscal Year of Injury

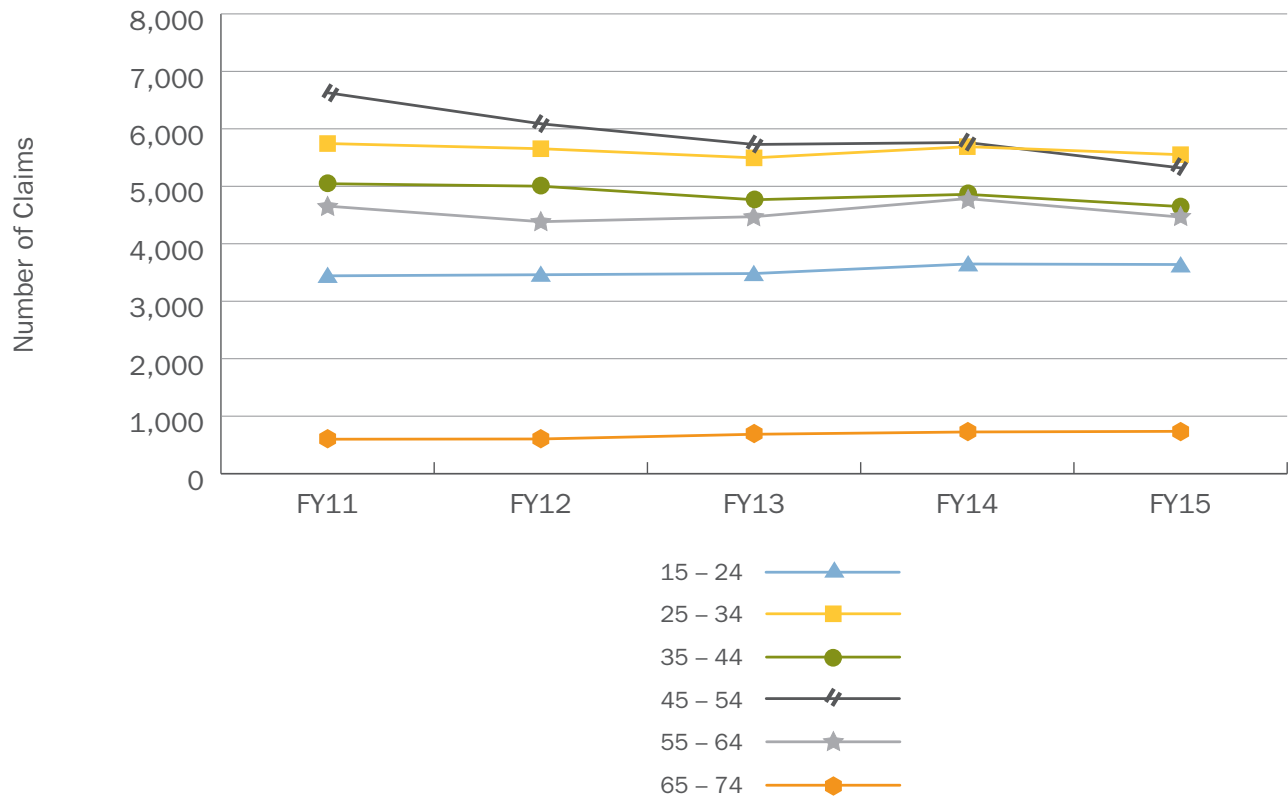


Exhibit 2.6

Reported Claims

By Claimant Age at Time of Injury and Fiscal Year of Injury

	FY11		FY12		FY13		FY14		FY15	
Age Group	Count	%	Count	%	Count	%	Count	%	Count	%
15 to 24	3,442	13%	3,461	13%	3,482	14%	3,648	14%	3,639	14%
25 to 34	5,744	22%	5,654	22%	5,495	22%	5,690	22%	5,550	22%
35 to 44	5,045	19%	5,002	19%	4,766	19%	4,860	19%	4,647	18%
45 to 54	6,628	25%	6,088	24%	5,728	23%	5,762	22%	5,320	21%
55 to 64	4,655	18%	4,384	17%	4,471	18%	4,786	18%	4,464	18%
65 to 74	599	2%	603	2%	685	3%	725	3%	736	3%
NOC ³	398	2%	532	2%	518	2%	496	2%	1,051	4%
Total	26,511	100%	25,724	100%	25,145	100%	25,967	100%	25,407	100%

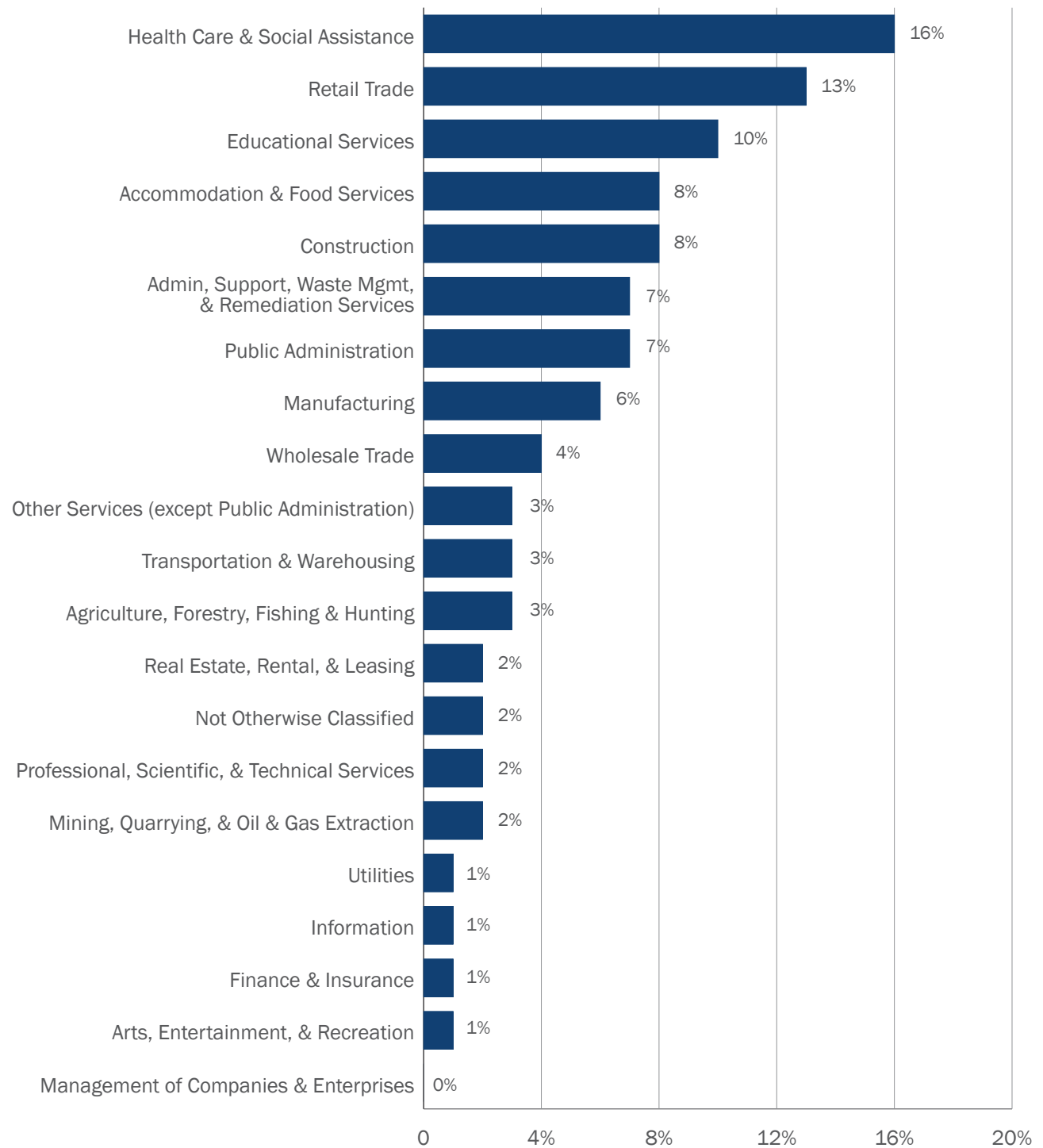
³NOC-Not otherwise classified

INJURED WORKER CHARACTERISTICS

Exhibit 2.7

Reported Claims – FY15

By Industry



INJURED WORKER CHARACTERISTICS

Exhibit 2.8

Reported Claims

By Industry and Fiscal Year of Injury

	FY11		FY12		FY13		FY14		FY15	
Industry	Count	%	Count	%	Count	%	Count	%	Count	%
Health Care & Social Assistance	4,491	17%	4,119	16%	4,144	16%	4,525	17%	3,988	16%
Retail Trade	3,355	13%	3,186	12%	3,268	13%	3,222	12%	3,382	13%
Educational Services	3,128	12%	2,741	11%	2,659	11%	2,886	11%	2,646	10%
Construction	1,807	7%	1,863	7%	1,823	7%	2,017	8%	2,098	8%
Accommodation & Food Services	1,825	7%	1,843	7%	1,922	8%	1,855	7%	2,054	8%
Public Administration	2,036	8%	1,996	8%	1,881	7%	1,992	8%	1,898	7%
Admin, Support, Waste Mgmt, & Remediation Services	1,933	7%	1,968	8%	1,767	7%	1,767	7%	1,670	7%
Manufacturing	1,640	6%	1,791	7%	1,669	7%	1,625	6%	1,645	6%
Wholesale Trade	935	4%	957	4%	960	4%	947	4%	941	4%
Agriculture, Forestry, Fishing & Hunting	786	3%	780	3%	736	3%	767	3%	808	3%
Transportation & Warehousing	774	3%	745	3%	725	3%	872	3%	804	3%
Other Services (except Public Administration)	517	2%	536	2%	510	2%	475	2%	667	3%
Mining, Quarrying, & Oil & Gas Extraction	662	2%	760	3%	683	3%	611	2%	506	2%
Professional, Scientific, & Technical Services	520	2%	499	2%	508	2%	462	2%	458	2%
Real Estate, Rental, & Leasing	416	2%	424	2%	424	2%	443	2%	430	2%
Arts, Entertainment, & Recreation	464	2%	358	1%	391	2%	380	1%	358	1%
Finance & Insurance	326	1%	259	1%	234	1%	253	1%	222	1%
Information	243	1%	236	1%	225	1%	212	1%	175	1%
Utilities	265	1%	242	1%	220	1%	197	1%	167	1%
Management of Companies & Enterprises	24	0%	43	0%	39	0%	42	0%	55	0%
Not Otherwise Classified	364	1%	378	1%	357	1%	417	2%	435	2%
Total	26,511	100%	25,724	100%	25,145	100%	25,967	100%	25,407	100%

INJURED WORKER CHARACTERISTICS

Exhibit 2.9

Reported Claims – FY15

By Cause of Injury

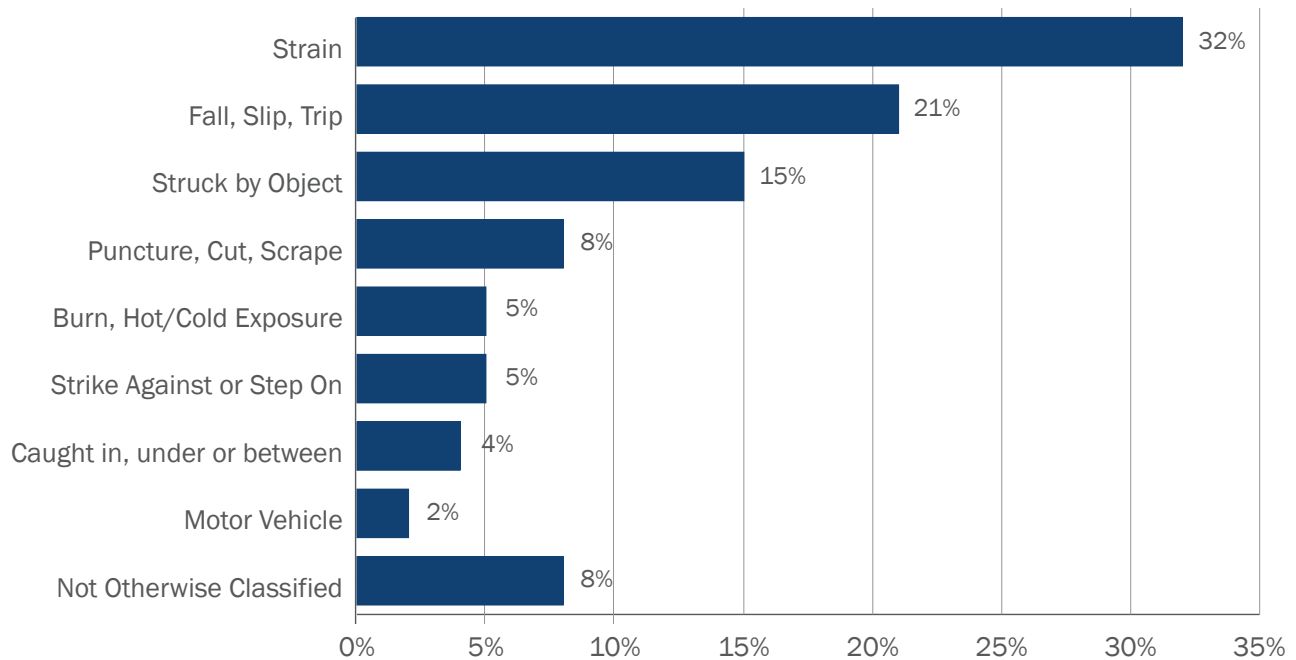


Exhibit 2.10

Reported Claims

By Cause of Injury and Fiscal Year of Injury

	FY11		FY12		FY13		FY14		FY15	
Cause of Injury	Count	%	Count	%	Count	%	Count	%	Count	%
Strain	8,566	32%	8,566	33%	8,180	33%	7,978	31%	8,220	32%
Fall, Slip, Trip	6,624	25%	5,248	20%	5,360	21%	6,309	24%	5,383	21%
Struck by Object	3,710	14%	3,924	15%	3,663	15%	3,768	15%	3,895	15%
Puncture, Cut, Scrape	1,723	6%	1,885	7%	1,882	7%	1,760	7%	1,929	8%
Strike Against or Step On	1,345	5%	1,331	5%	1,351	5%	1,363	5%	1,305	5%
Burn, Hot/Cold Exposure	1,102	4%	1,169	5%	1,331	5%	1,310	5%	1,243	5%
Caught in, under or between	1,022	4%	1,059	4%	941	4%	924	4%	989	4%
Motor Vehicle	526	2%	519	2%	518	2%	549	2%	503	2%
Not Otherwise Classified	1,893	7%	2,023	8%	1,919	8%	2,006	8%	1,940	8%
Total	26,511	100%	25,724	100%	25,145	100%	25,967	100%	25,407	100%

INJURED WORKER CHARACTERISTICS

Exhibit 2.11

Reported Claims – FY15

By Industry and Cause of Injury

Industry	Burn, Hot/Cold Exposure	Caught In, Under or Between	Fall, Slip, Trip	Motor Vehicle	Puncture, Cut, Scrape	Strain	Strike Against or Step On	Struck By Object	NOC	Total
Health Care & Social Assistance	232	101	763	48	395	1,395	159	607	288	3,988
Retail Trade	114	126	585	45	314	1,257	197	462	282	3,382
Educational Services	73	43	873	22	147	618	111	662	97	2,646
Accommodation & Food Services	187	48	523	15	392	475	103	197	114	2,054
Construction	92	108	383	43	130	660	171	312	199	2,098
Public Administration	94	64	461	82	77	592	79	208	241	1,898
Admin, Support, Waste Mgmt, & Remediation Services	94	56	344	42	54	571	90	317	102	1,670
Manufacturing	104	133	213	13	100	629	79	217	157	1,645
Wholesale Trade	49	36	174	17	82	343	46	116	78	941
Transportation & Warehousing	29	37	195	35	23	322	35	84	48	808
Agriculture, Forestry, Fishing & Hunting	24	80	167	44	11	167	44	200	67	804
Other Services (except Public Administration)	47	29	112	13	73	202	38	78	75	667
Mining, Quarrying, & Oil & Gas Extraction	20	42	64	18	9	191	38	81	43	506
Professional, Scientific, & Technical Services	17	17	77	11	16	138	16	141	25	458
Real Estate, Rental, & Leasing	18	14	83	11	22	175	17	54	36	430
Arts, Entertainment, & Recreation	15	6	105	6	14	114	29	61	8	358
Finance & Insurance	4	5	80	11	9	78	13	10	12	222
Information	7	11	48	7	4	63	12	14	9	175
Utilities	5	9	38	5	15	61	12	16	6	167
Management of Companies & Enterprises	0	3	18	0	5	19	3	5	2	55
Not Otherwise Classified	18	21	77	15	37	150	13	53	51	435
Grand Total	1,243	989	5,383	503	1,929	8,220	1,305	3,895	1,940	25,407

INJURED WORKER CHARACTERISTICS

Exhibit 2.12

Reported Claims – FY15

By Nature of Injury

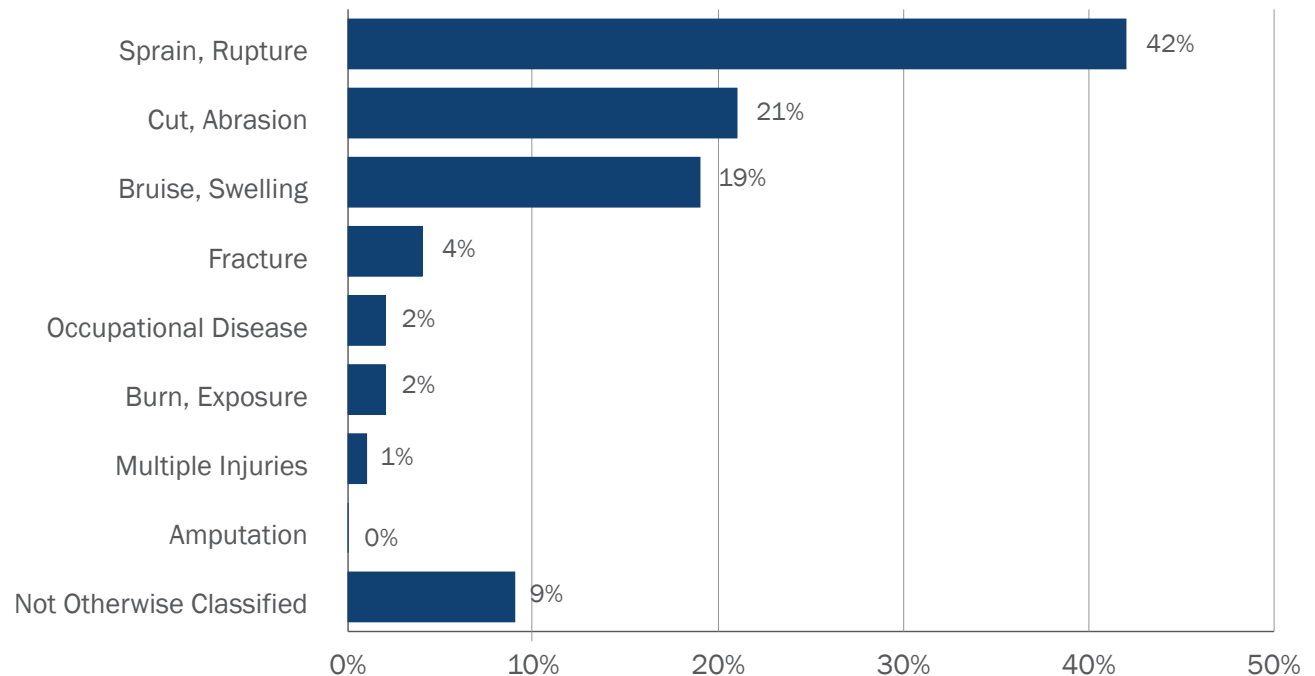


Exhibit 2.13

Reported Claims

By Nature of Injury and Fiscal Year of Injury

	FY11		FY12		FY13		FY14		FY15	
Nature of Injury	Count	%	Count	%	Count	%	Count	%	Count	%
Sprain, Rupture	11,650	44%	10,892	42%	10,859	43%	10,999	42%	10,691	42%
Cut, Abrasion	4,948	19%	5,341	21%	5,214	21%	5,264	20%	5,395	21%
Bruise, Swelling	5,089	19%	4,833	19%	4,604	18%	5,143	20%	4,717	19%
Fracture	1,099	4%	1,096	4%	995	4%	1,008	4%	945	4%
Burn, Exposure	604	2%	595	2%	655	3%	607	2%	586	2%
Occupational Disease	758	3%	633	2%	596	2%	605	2%	573	2%
Multiple Injuries	149	1%	121	0%	149	1%	191	1%	214	1%
Amputation	53	0%	40	0%	49	0%	57	0%	50	0%
Not Otherwise Classified	2,161	8%	2,173	8%	2,024	8%	2,093	8%	2,236	9%
Total	26,511	100%	25,724	100%	25,145	100%	25,967	100%	25,407	100%

INJURED WORKER CHARACTERISTICS

Exhibit 2.14

Reported Claims – FY15

By Part of Body

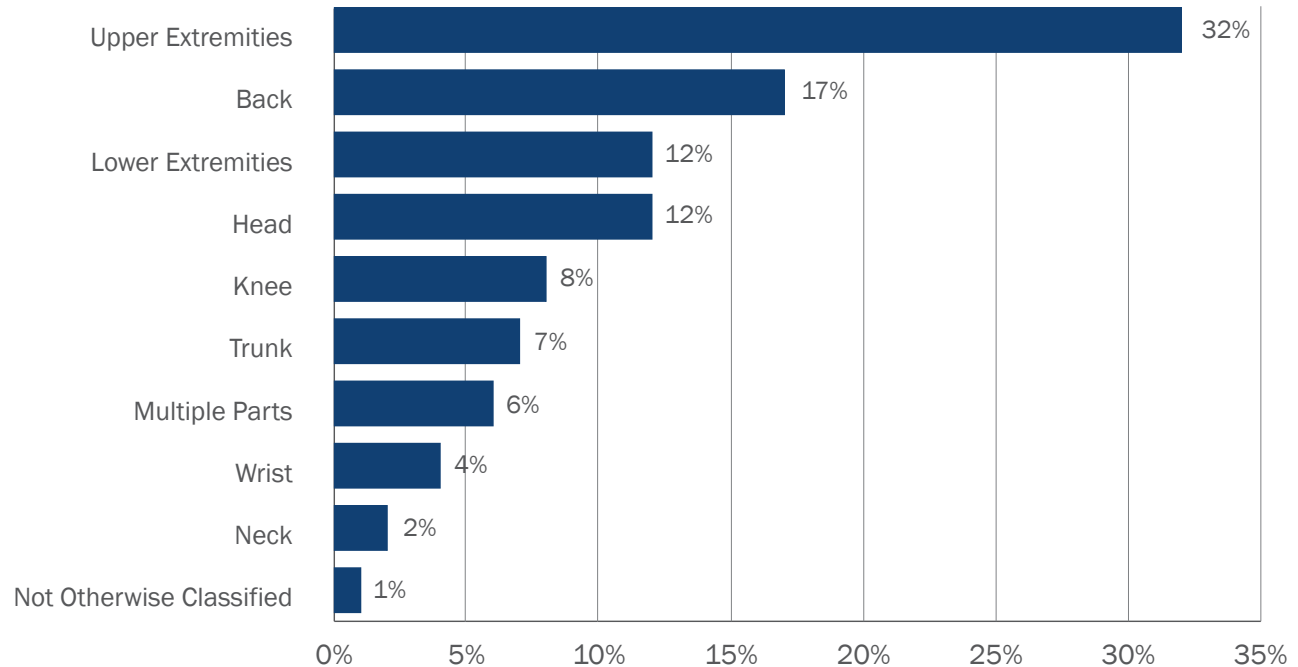


Exhibit 2.15

Reported Claims

By Part of Body and Fiscal Year of Injury

	FY11		FY12		FY13		FY14		FY15	
Part of Body	Count	%	Count	%	Count	%	Count	%	Count	%
Upper Extremities	8,126	31%	8,198	32%	8,052	32%	8,077	31%	8,134	32%
Back	4,803	18%	4,579	18%	4,444	18%	4,551	18%	4,220	17%
Lower Extremities	3,007	11%	2,956	11%	2,858	11%	3,034	12%	3,041	12%
Head	2,882	11%	2,842	11%	2,755	11%	2,919	11%	2,928	12%
Knee	2,280	9%	2,107	8%	2,125	8%	2,157	8%	2,030	8%
Trunk	1,732	7%	1,728	7%	1,703	7%	1,795	7%	1,696	7%
Multiple Parts	1,654	6%	1,260	5%	1,299	5%	1,443	6%	1,424	6%
Wrist	1,131	4%	1,171	5%	1,117	4%	1,138	4%	1,100	4%
Neck	614	2%	584	2%	588	2%	587	2%	529	2%
Not Otherwise Classified	282	1%	299	1%	204	1%	266	1%	305	1%
Total	26,511	100%	25,724	100%	25,145	100%	25,967	100%	25,407	100%

INSURER DENIAL OF CLAIMS

Exhibit 2.16

Insurer Denial of Claims By Fiscal Year of Injury

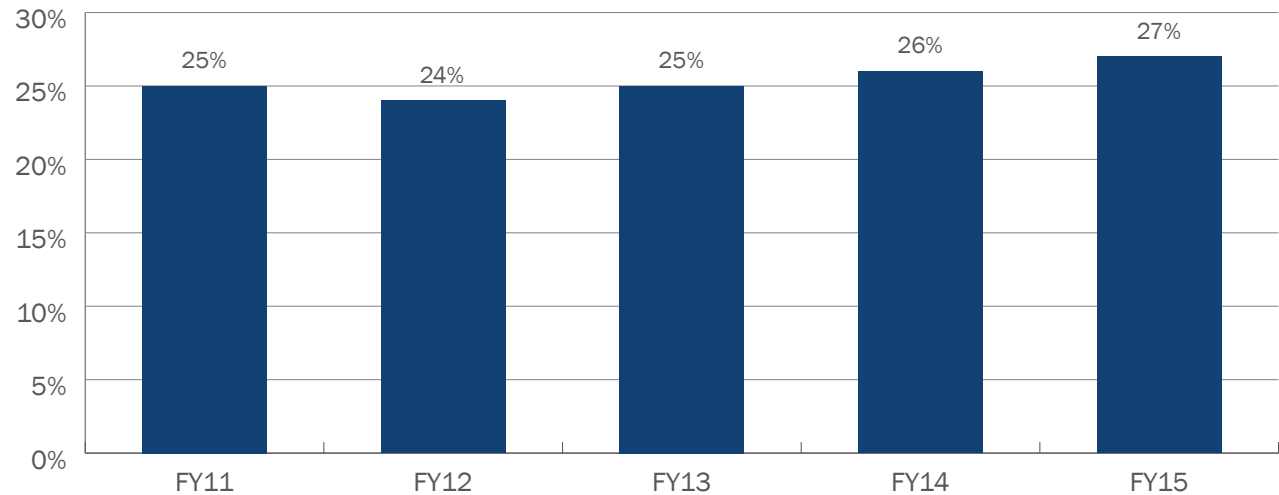


Exhibit 2.17

Insurer Denial of Claims⁴ By Reason of Denial and Fiscal Year of Injury

Reason for Claim Denial		FY11	FY12	FY13	FY14	FY15
Coverage Issue	No coverage	41	63	50	70	60
	405 - Independent Contractor Issue	0	0	2	1	5
Definition of Injury	Does not meet definition of injury	326	312	223	232	250
	Does not meet definition of Occupational Disease	50	44	39	44	68
	Stress - not compensable	17	8	13	13	17
Missing/Insufficient Information	Incomplete or missing information necessary to accept liability	92	114	37	73	355
	Non-Cooperation in Investigation	0	2	1	5	127
Notice/ Filing Requirements	No Signed FROI has been received	234	143	192	188	358
	No 30-day notice to employer	111	123	120	148	128
	Did not file within 12 months	3	4	13	38	48
Not in Course & Scope	Not in course and scope of employment	513	513	427	459	473
No Objective Medical	No objective medical findings to substantiate injury	4,891	4,760	5,082	5,334	4,823
Other	Coming & Going	0	0	0	0	0
	Pre-existing Condition	0	0	1	3	19
	Duplicate Claim	0	0	1	2	16
	Condition is covered under a prior claim	0	0	0	1	26
	Claimant does not wish to file a WC claim	0	0	1	1	20
	Other/Not Otherwise Classified	398	186	145	210	73
Total		6,676	6,272	6,347	6,822	6,866

⁴ERD revised the denial groupings and individual codes for FY15. Due to that, and staff training, direct comparison of codes in prior years may not be possible. For example, a new reason added in FY15 was "No Signed FROI has been received". In previous years, there was not a distinction between receiving a signed FROI and not filing within 12 months, so they were all placed in the reason, "Did not file within 12 months".

Section

3

BENEFITS

- Total Benefits
- Insurer Miscellaneous Expenses
- Benefit Distribution
- Temporary Disability Paid Duration
- Settlement Dollars
- Settlement of Medical Benefits for Best Interest
- Injured Worker Attorney Fees
- Insurer Legal Expenses



TOTAL BENEFITS

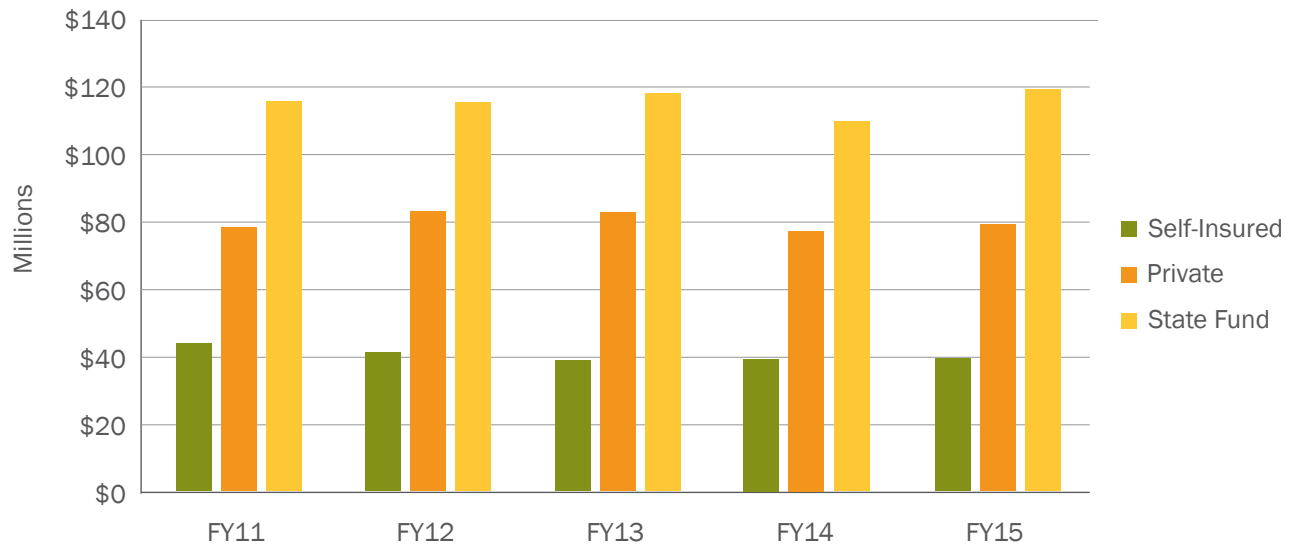
The total benefits paid for each fiscal year are compiled from the total dollars that insurers report paid in that year for medical and indemnity benefits, regardless of the original date of injury. This data is compiled from quarterly expenditure reports submitted to the Department by workers' compensation insurers or by claim administrators on the insurers' behalf.

The share of total benefits paid between the three Plans remained fairly stable in FY15, although total benefits paid increased 5.1% from FY14 to FY15. Medical benefits paid increased 7.8% from FY14 to FY15, with the largest increase realized by Montana State Fund, with a 12.5% increase. Indemnity benefits paid remained fairly stable during the same period.

Exhibit 3.1

Total Benefits Paid¹

By Plan Type and Fiscal Year of Payment



¹Total benefits paid represent indemnity and medical (including medical in excess of \$200,000) from DLI quarterly expenditure reports.

Exhibit 3.2

Total Benefits Paid²

By Plan Type and Fiscal Year of Payment

	FY11		FY12		FY13		FY14		FY15	
Plan Type	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Self-Insured	\$43,680,403	18%	\$41,062,063	17%	\$38,585,311	16%	\$39,072,836	17%	\$39,215,927	17%
Private	\$77,955,422	33%	\$82,784,689	35%	\$82,517,779	35%	\$76,983,400	34%	\$78,830,587	33%
State Fund	\$115,345,118	49%	\$115,037,148	48%	\$117,694,452	49%	\$109,289,961	48%	\$118,785,327	50%
Total	\$236,980,943	100%	\$238,883,900	100%	\$238,797,542	100%	\$225,346,197	100%	\$236,831,841	100%

²The percentage totals for several charts in this section may not sum exactly to 100% due to rounding.

TOTAL BENEFITS

Exhibit 3.3

Medical Payments

By Plan Type and Fiscal Year of Payment

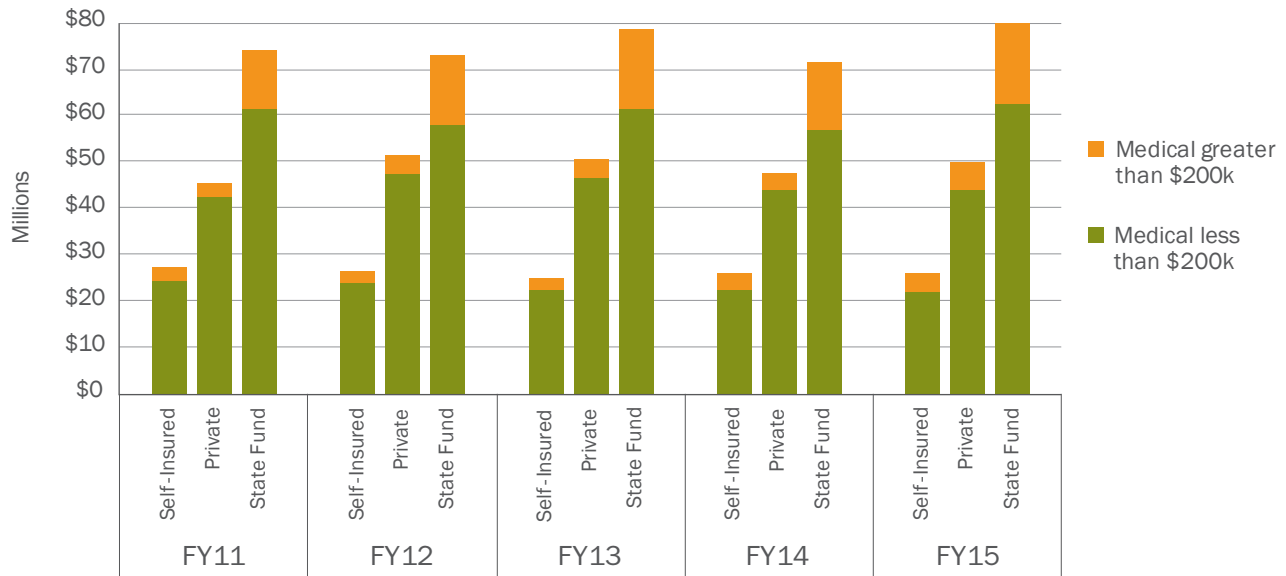


Exhibit 3.4

Medical Payments

By Plan Type and Fiscal Year of Payment

	FY11		FY12		FY13		FY14		FY15	
Plan Type	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Self-Insured	\$27,627,722	19%	\$26,422,994	18%	\$25,105,588	16%	\$25,762,018	18%	\$26,008,711	17%
Private	\$45,653,623	31%	\$51,538,641	34%	\$50,653,724	33%	\$47,611,486	33%	\$49,720,428	32%
State Fund	\$73,910,420	50%	\$73,234,300	48%	\$78,502,158	51%	\$71,421,450	49%	\$80,372,309	51%
Total	\$147,191,765	100%	\$151,195,935	100%	\$154,261,470	100%	\$144,794,954	100%	\$156,101,448	100%

TOTAL BENEFITS

Exhibit 3.5

Indemnity Payments

By Plan Type and Fiscal Year of Payment

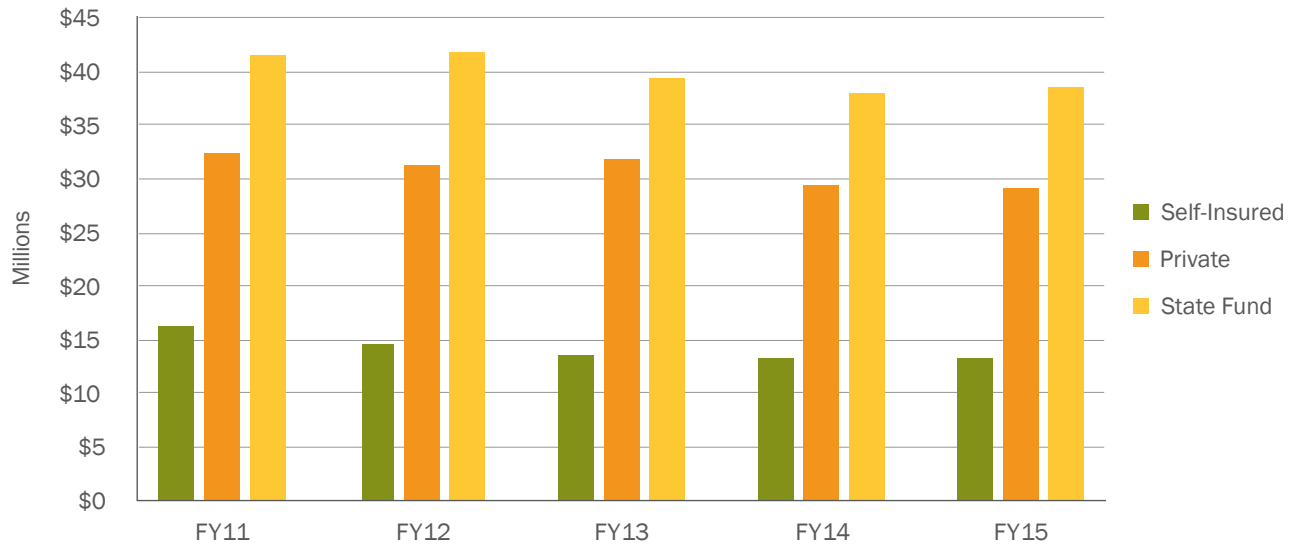


Exhibit 3.6

Indemnity Payments

By Plan Type and Fiscal Year of Payment

	FY11		FY12		FY13		FY14		FY15	
Plan Type	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Self-Insured	\$16,052,682	18%	\$14,639,070	17%	\$13,479,723	16%	\$13,310,818	17%	\$13,207,215	16%
Private	\$32,301,799	36%	\$31,246,048	36%	\$31,864,055	38%	\$29,371,914	36%	\$29,110,159	36%
State Fund	\$41,434,698	46%	\$41,802,848	47%	\$39,192,294	46%	\$37,868,511	47%	\$38,413,019	48%
Total	\$89,789,179	100%	\$87,687,966	100%	\$84,536,072	100%	\$80,551,243	100%	\$80,730,393	100%

INSURER MISCELLANEOUS EXPENSES

Miscellaneous expenses are reported to the Department as a part of the quarterly expenditure reports submitted by workers' compensation insurers or by claim administrators on the insurers' behalf. Miscellaneous expenses are costs incurred on a claim by an insurer other than medical and indemnity benefits. These costs include, but are not limited to:

- Rehabilitation services provided by a licensed rehabilitation provider or the department of health and human services;
- Rehabilitation expenses, such as books and tuition;
- Auxiliary rehabilitation benefits, such as relocation expenses;
- Administrative costs for processing of claims, such as the costs of investigating or adjusting the claim;
- Independent medical examinations requested by the insurer where the purpose of the examination is not for the diagnosis or treatment of the claimant's condition;
- Matching payments to a catastrophically injured worker's family; and
- Various other miscellaneous costs that do not constitute an indemnity or medical benefit provided to the claimant or beneficiary.

Exhibit 3.7

Insurer Miscellaneous Expenses

By Plan Type and Fiscal Year

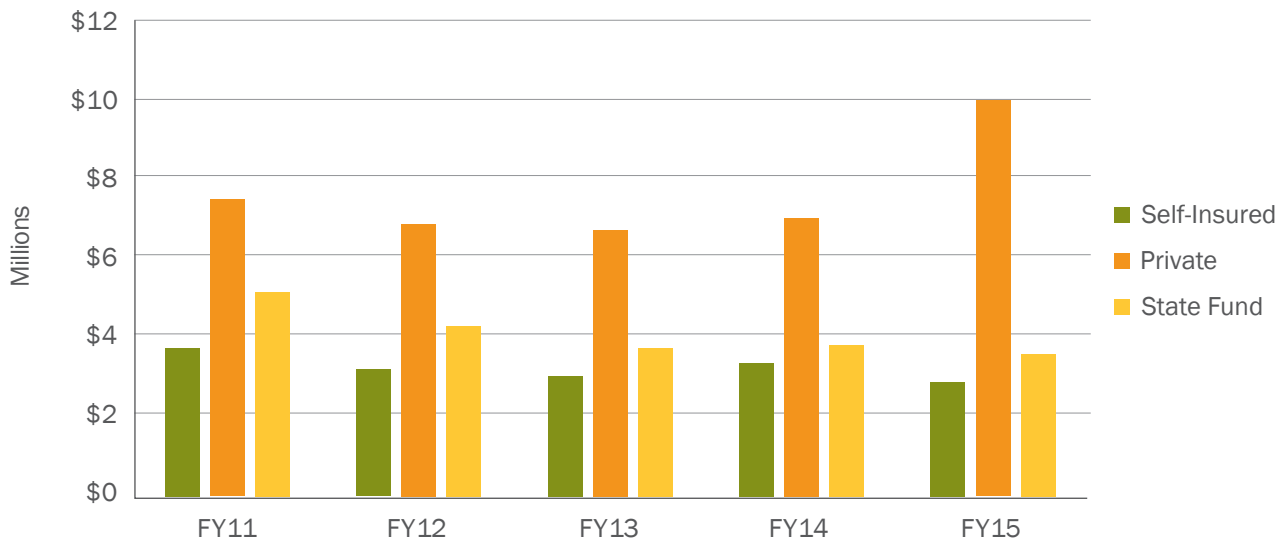


Exhibit 3.8

Insurer Miscellaneous Expenses

By Plan Type and Fiscal Year

	FY11		FY12		FY13		FY14		FY15	
Plan Type	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Self-Insured	\$3,700,578	23%	\$3,188,877	22%	\$3,036,694	23%	\$3,317,717	23%	\$2,893,107	18%
Private	\$7,452,139	46%	\$6,807,376	48%	\$6,689,774	50%	\$7,007,139	50%	\$9,960,039	61%
State Fund	\$5,108,382	31%	\$4,284,226	30%	\$3,724,473	28%	\$3,817,460	27%	\$3,548,943	22%
Total	\$16,261,099	100%	\$14,280,479	100%	\$13,450,941	100%	\$14,142,316	100%	\$16,402,089	100%

BENEFIT DISTRIBUTION

The next series of Exhibits show various breakdowns of benefits paid on indemnity claims, using data from Subsequent Reports of Injury (SROIs) received by the Department.

Exhibit 3.9

Total Benefits Paid on Indemnity Claims By Benefit Type and Fiscal Year of Injury

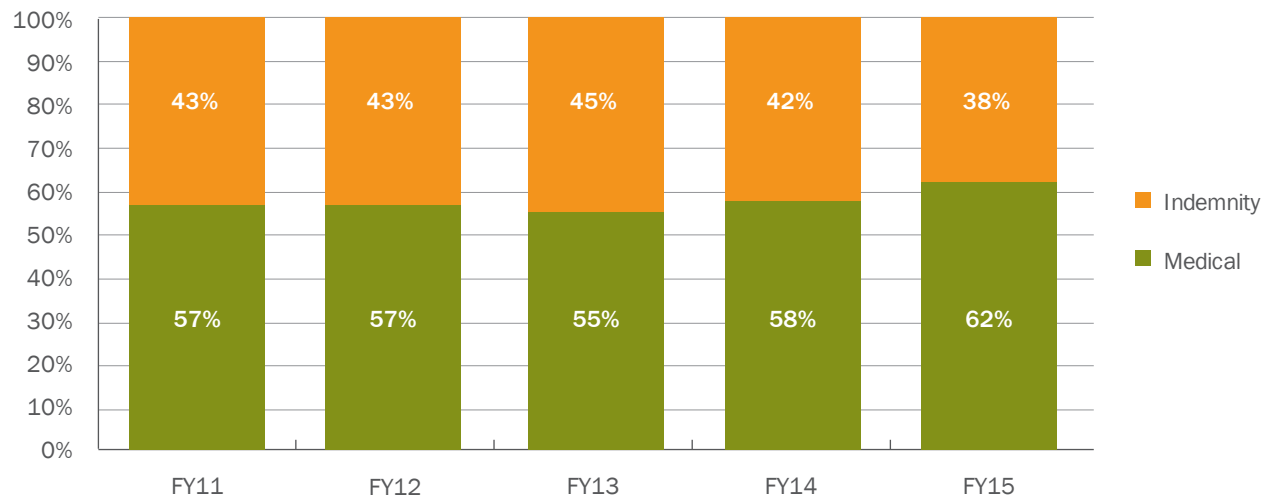
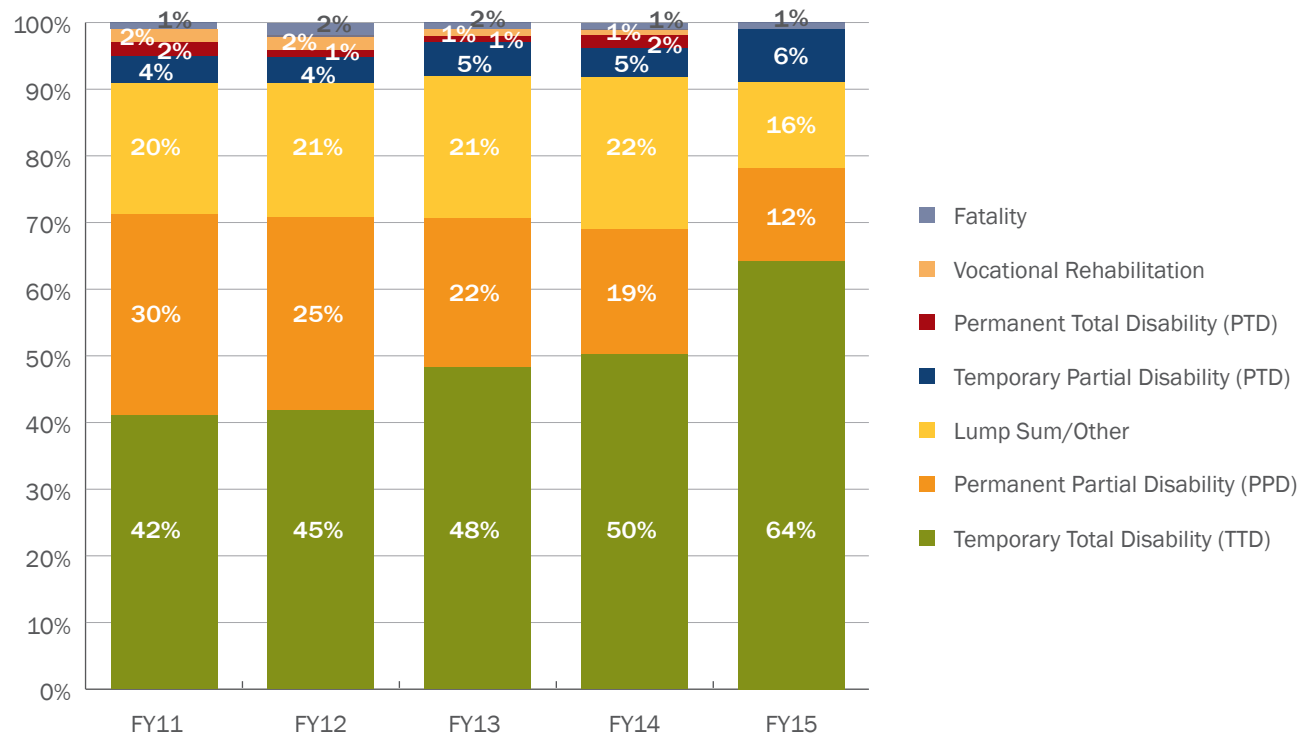


Exhibit 3.10

Indemnity Benefits Paid³ By Benefit Type and Fiscal Year of Injury



³Benefit breakdowns change as claims mature. For example, the percentage of PPD benefits will increase over time since they normally occur later in the life of a claim. Conversely, TTD benefits usually occur earlier in the life of a claim.

BENEFIT DISTRIBUTION

Exhibit 3.11

Medical Dollars on Indemnity Claims

By Type of Medical Provider and Fiscal Year of Injury

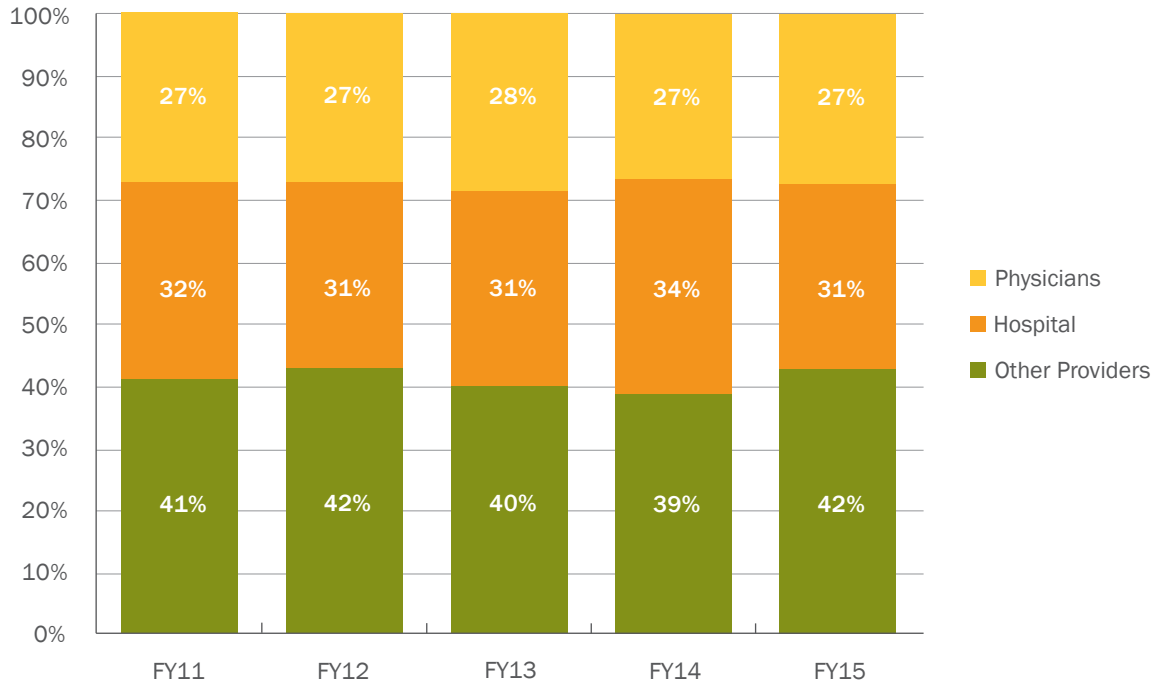
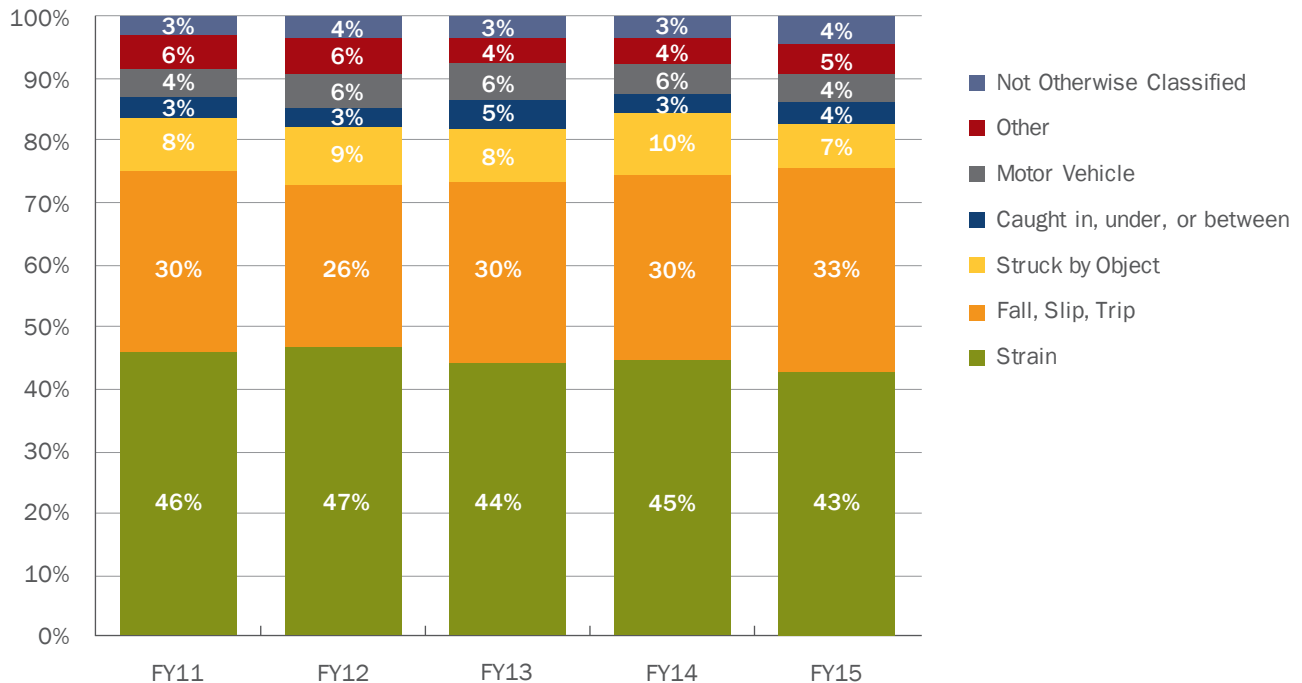


Exhibit 3.12

Total Benefits Paid on Indemnity Claims⁴

By Cause of Injury and Fiscal Year of Injury

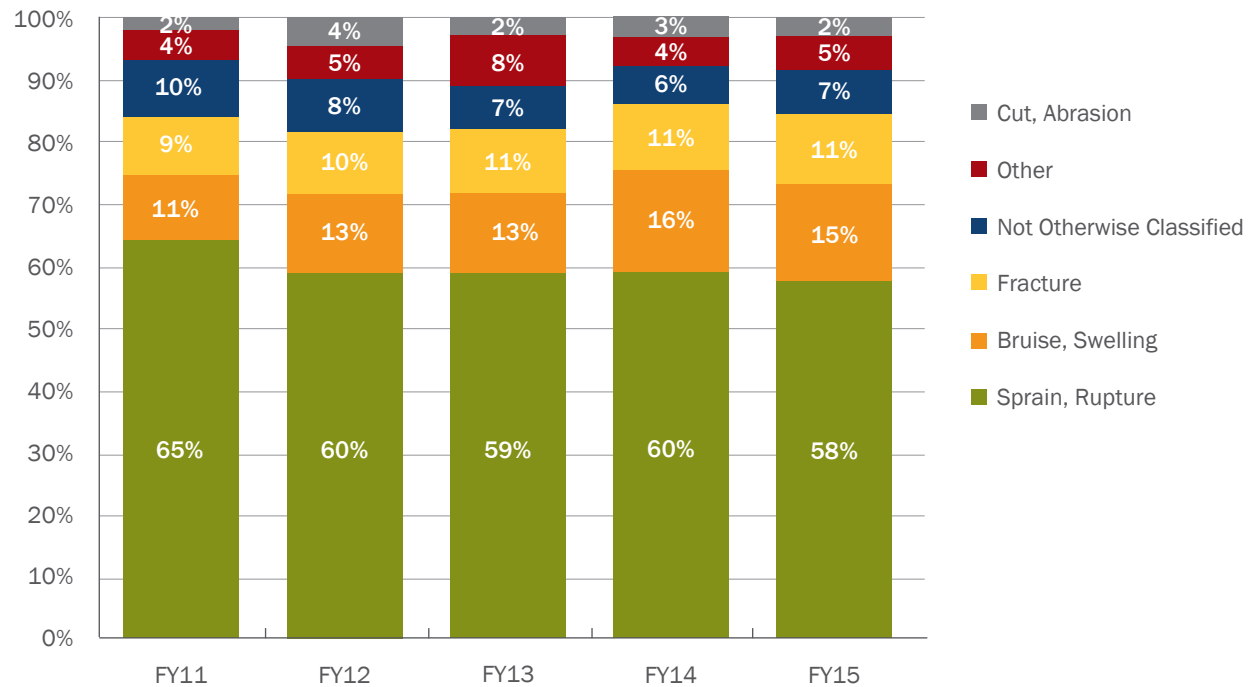


⁴Other includes Strike against or Step on; Burn, Hot/Cold Exposure; and Puncture, Cut, Scrape

BENEFIT DISTRIBUTION

Exhibit 3.13

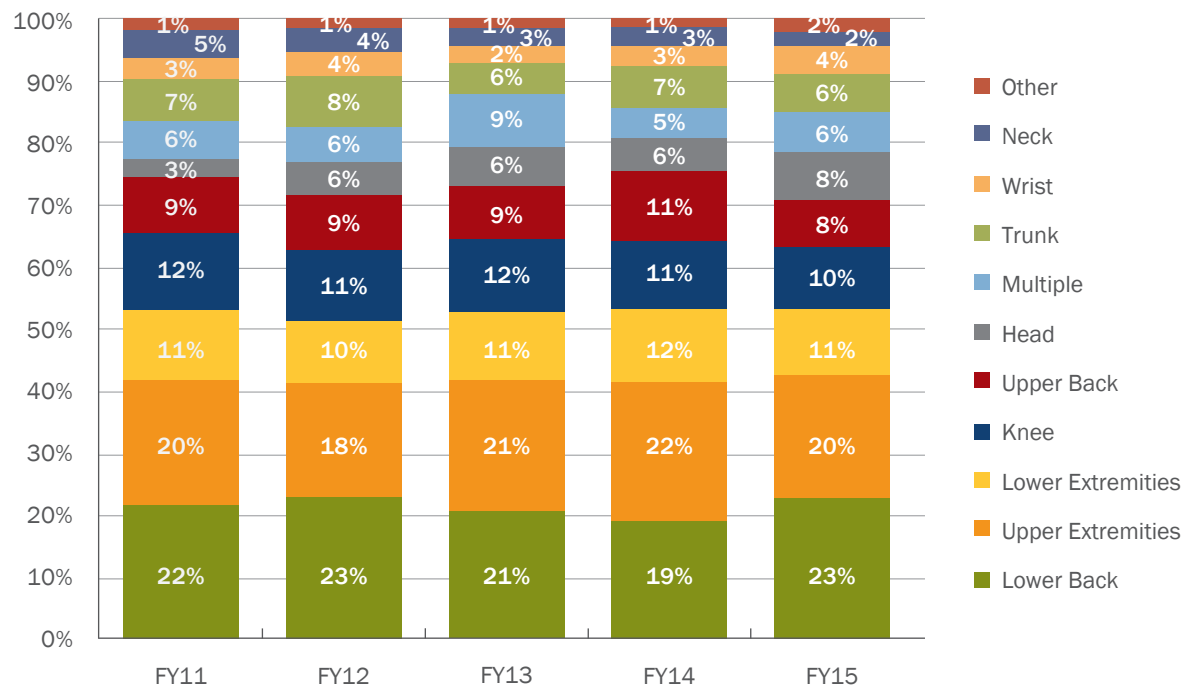
Total Benefits Paid on Indemnity Claims⁵ By Nature of Injury and Fiscal Year of Injury



⁵Other includes Amputation; Burn, Exposure; Occupational Disease; and Multiple Injuries

Exhibit 3.14

Total Benefits Paid on Indemnity Claims⁶ By Part of Body and Fiscal Year of Injury



⁶Part of Body as reported on the First Report of Injury.

BENEFIT DISTRIBUTION

The benefit distributions displayed as histograms in Exhibits 3.15 and 3.16 represent the proportion of claims that fall into different benefit dollar ranges. For wage loss claims with dates of injury from FY11 to FY15, most wage loss benefits (87%) were \$20,000 or less. Most medical benefits (79%) were \$20,000 or less.

Exhibit 3.15

Distribution of Wage Loss Benefits Paid – FY11 to FY15

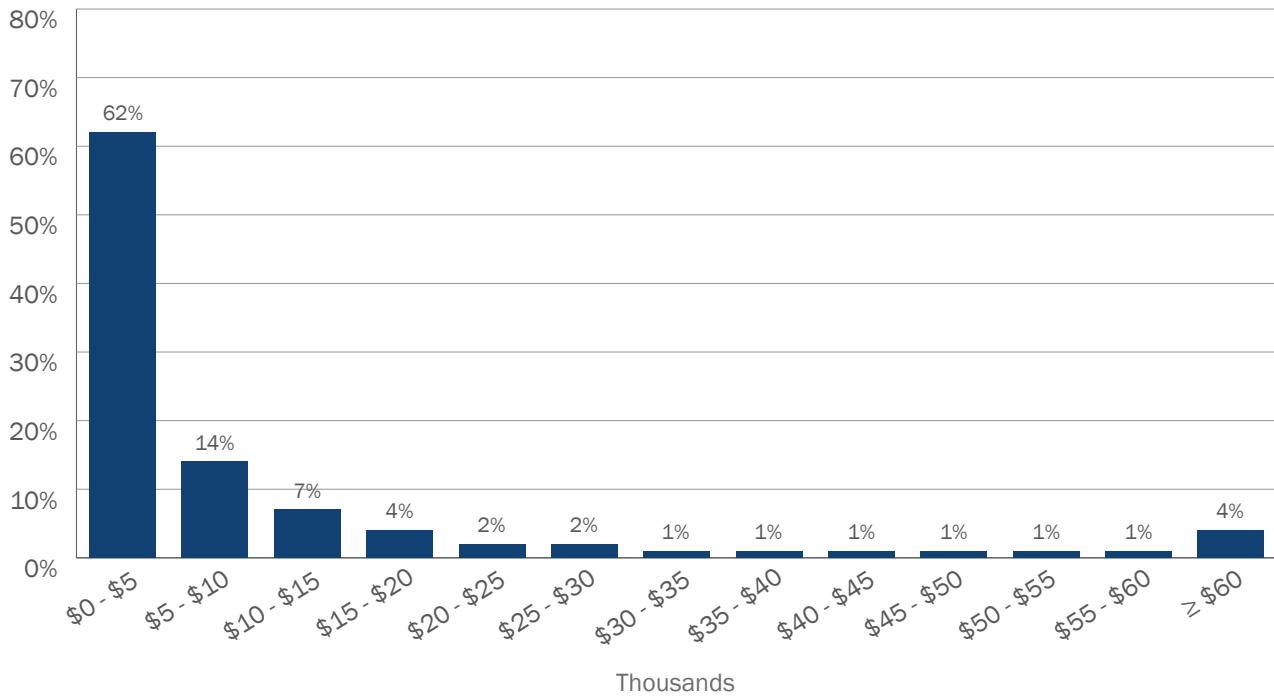
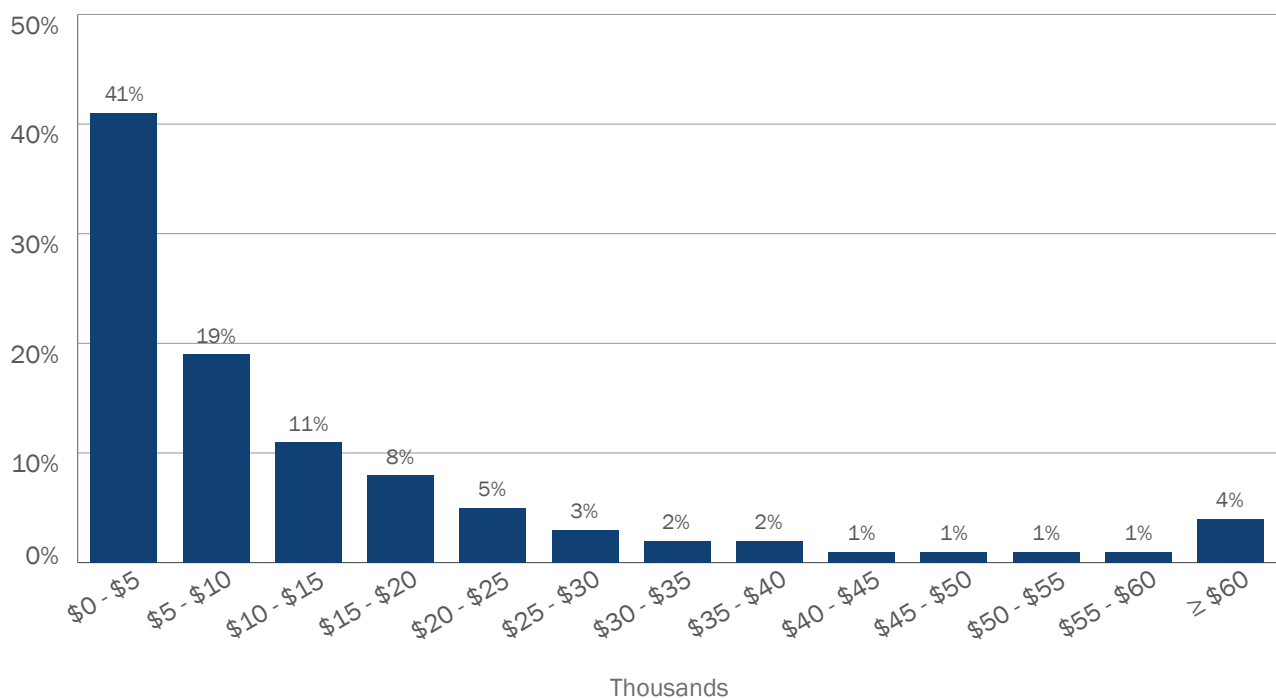


Exhibit 3.16

Distribution of Medical Benefits Paid – FY11 to FY15



TEMPORARY DISABILITY PAID DURATION

Disability duration is an important measure of how quickly injured workers return to work. Claims with Temporary Total Disability (TTD) or Temporary Partial Disability (TPD) or both were considered to calculate the average paid disability duration of injured workers in Montana. The “All Plans” average is a weighted average.

We calculated the paid disability duration as the total TTD payments plus TPD payments on each claim divided by the reported weekly benefit rate for each claim. The weekly benefit rate value was chosen by the following rules:

- If TTD WBR (weekly benefit rate) was available; TTD WBR was used for both TTD and TPD;

- If TTD WBR was not available, TPD WBR was used for both TTD and TPD;
- If neither TTD WBR nor TPD WBR was available, cases were excluded.

High (>\$698 for 1 Year Maturity and >\$649 for 3 Year Maturity) or extremely low weekly benefit rate (<\$60) values were excluded from the analysis due to data quality concerns. For 1-year maturity, the longest maturity cannot be beyond 52 weeks and the longest 3-year maturity was capped at 157 weeks.

Exhibit 3.17

Temporary Disability Paid Duration – 1 Year Maturity

By Plan Type and Fiscal Year of Injury

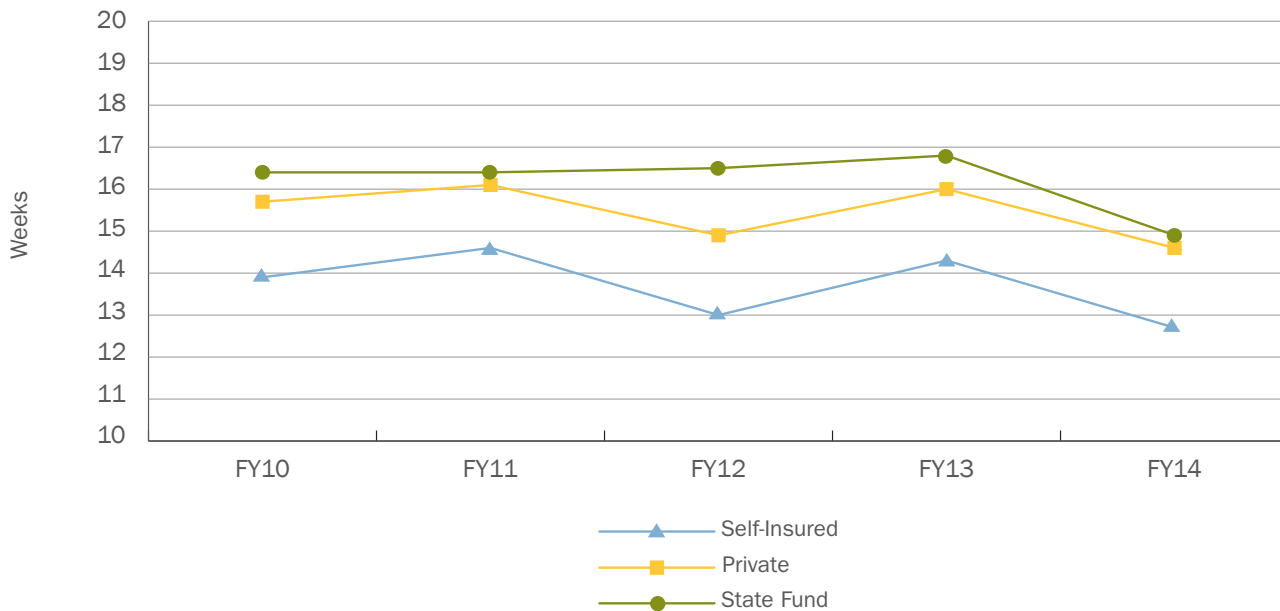


Exhibit 3.18

Temporary Disability Paid Duration (weeks) – 1 Year Maturity

By Plan Type and Fiscal Year of Injury

Plan Type	FY10	FY11	FY12	FY13	FY14
Self-Insured	13.9	14.6	13.0	14.3	12.7
Private	15.7	16.1	14.9	16.0	14.6
State Fund	16.4	16.4	16.5	16.8	14.9
All Plans	15.7	16.0	15.3	16.1	14.5

TEMPORARY DISABILITY PAID DURATION

Exhibit 3.19

Temporary Disability Paid Duration – 3 Year Maturity

By Plan Type and Fiscal Year of Injury

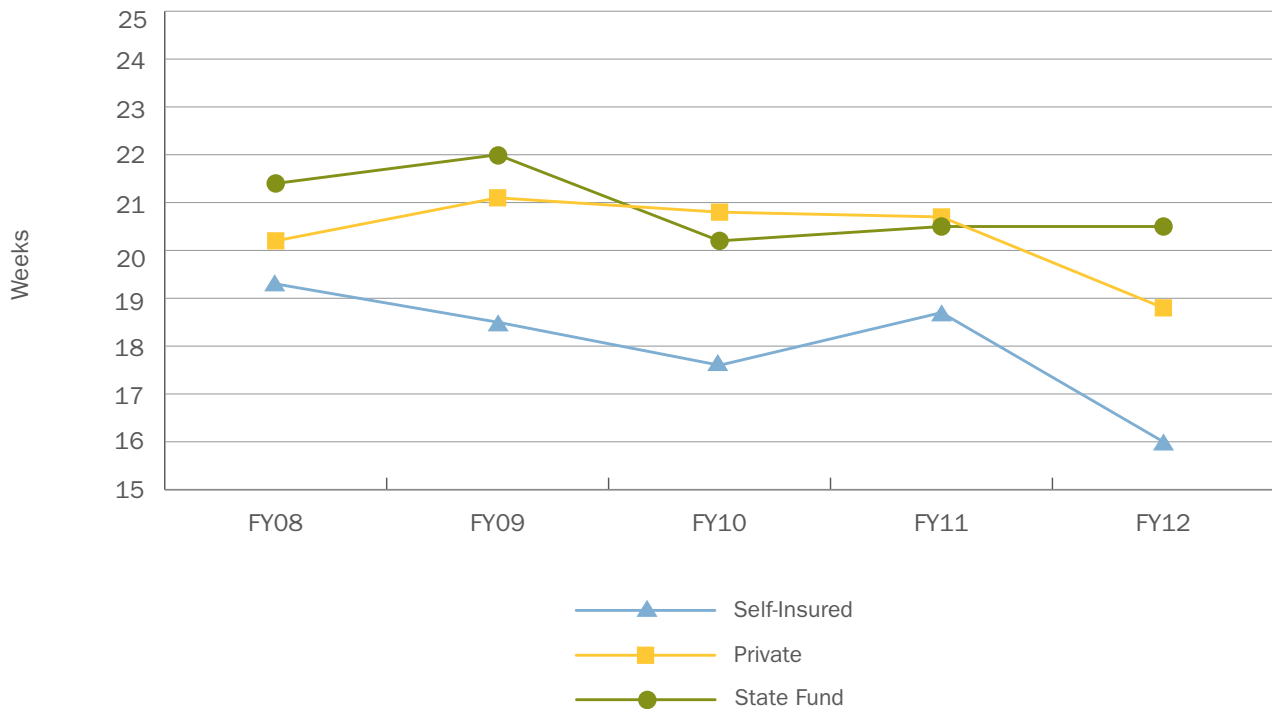


Exhibit 3.20

Temporary Disability Paid Duration (weeks) – 3 Year Maturity

By Plan Type and Fiscal Year of Injury

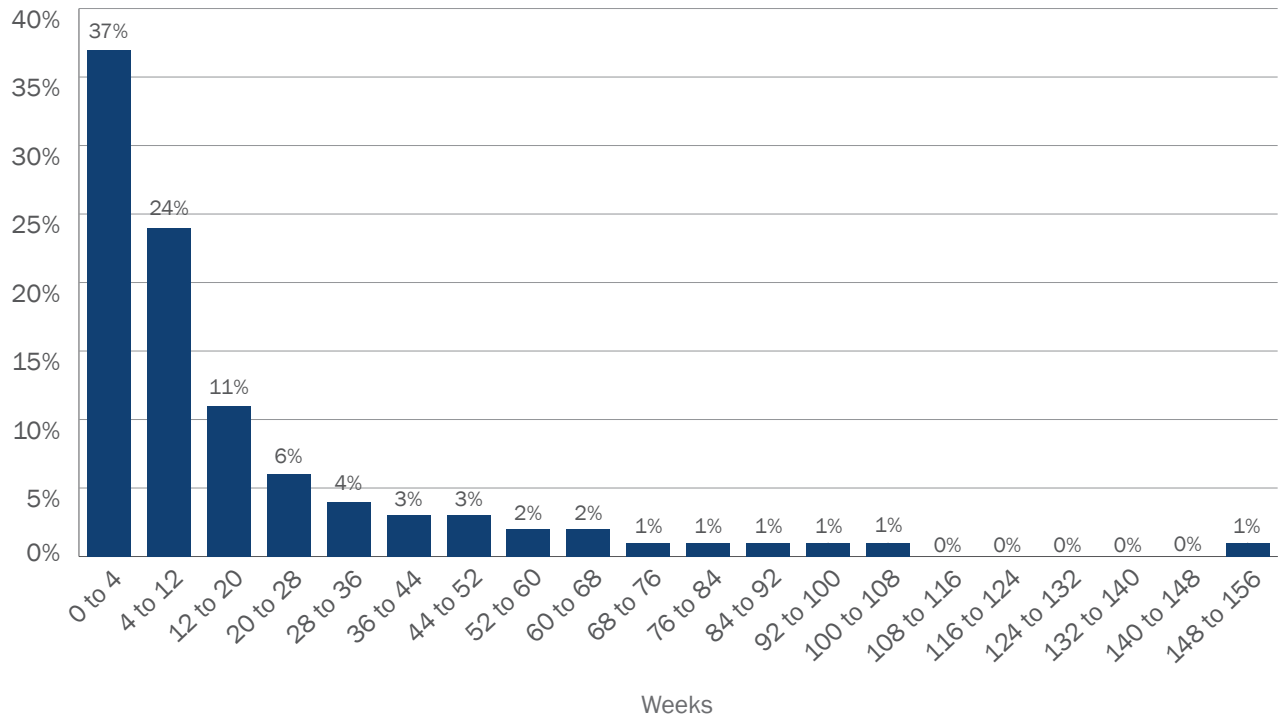
Plan Type	FY08	FY09	FY10	FY11	FY12
Self-Insured	19.3	18.5	17.6	18.7	16.0
Private	20.2	21.1	20.8	20.7	18.8
State Fund	21.4	22.0	20.2	20.5	20.5
All Plans	20.7	21.1	20.0	20.3	19.2

TEMPORARY DISABILITY PAID DURATION

Exhibit 3.21

Distribution of Temporary Disability Paid Duration – 3-Year Maturity

By Weeks



SETTLEMENT DOLLARS

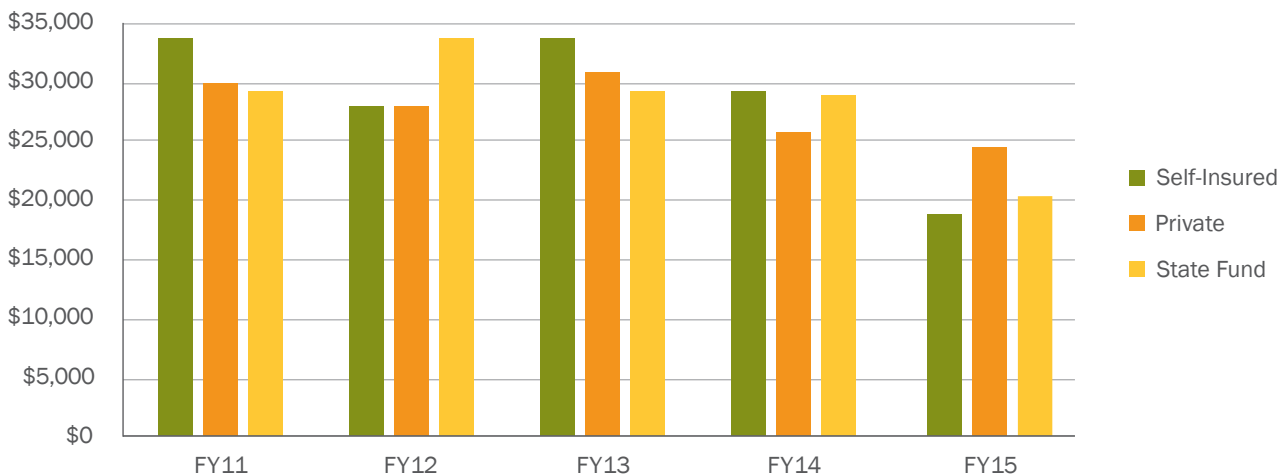
Settlements are lump sum payments of the claimant's workers' compensation indemnity and/or medical benefits. Benefits are usually paid in periodic payments designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits will be converted to a lump sum payment. If the claimant has more than one claim, a settlement may settle more than one of those

claims. Included in the dollar amount of the settlement is the money specified for settlement of medical benefits under "Best Interest", as shown in Exhibits 3.22, 3.23 and 3.24. Settlements are subject to approval by ERD. Settlement counts and dollar amounts (average and total) for injury and occupational disease settlements, by plan type and fiscal year of injury, are displayed below. All Exhibits show data received through early 2016.

Exhibit 3.22

Average Settlement Amount

By Plan Type and Fiscal Year of Injury



	FY11	FY12	FY13	FY14	FY15
Self-Insured	\$33,648	\$27,689	\$33,602	\$29,193	\$18,704
Private	\$29,729	\$27,940	\$30,581	\$25,715	\$24,304
State Fund	\$29,141	\$33,436	\$29,162	\$28,747	\$20,313

Exhibit 3.23

Settlement Amounts for Settled Claims

By Plan Type and Fiscal Year of Injury

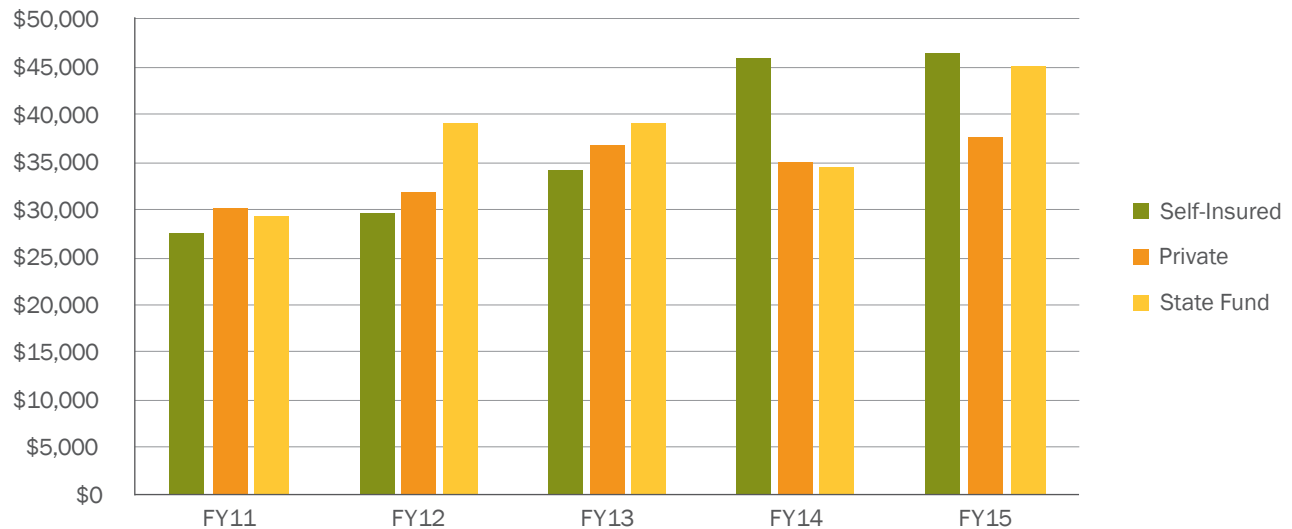
	FY11		FY12		FY13		FY14		FY15	
Plan Type	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Self-Insured	\$4,306,895	128	\$3,350,404	121	\$4,099,487	122	\$2,481,388	85	\$729,471	39
Private	\$15,697,025	528	\$13,858,254	496	\$15,626,982	511	\$8,717,342	339	\$5,298,375	218
State Fund	\$18,417,362	632	\$19,593,344	586	\$15,601,627	535	\$15,034,717	523	\$7,190,810	354
UEF	\$30,500	2	\$261,268	10	\$120,386	9	\$178,700	9	\$130,168	3
Total	\$38,451,782	1,290	\$37,063,270	1,213	\$35,448,482	1,177	\$26,412,147	956	\$13,348,824	614

SETTLEMENT DOLLARS

The following two Exhibits show settlement information by the fiscal year of the settlement decision. This provides an indicator of actual activity in the system as it occurs.

Exhibit 3.24

Average Settlement Amount By Fiscal Year of Decision



Self-Insured	\$27,446	\$29,602	\$34,227	\$45,912	\$46,443
Private	\$30,274	\$31,956	\$36,869	\$35,084	\$37,664
State Fund	\$29,365	\$39,063	\$39,067	\$34,499	\$45,189

Exhibit 3.25

Settlement Amounts for Claims Settled By Plan Type and Fiscal Year of Decision

	FY11		FY12		FY13		FY14		FY15	
Plan Type	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Self-Insured	\$6,477,244	236	\$6,630,823	224	\$5,305,175	155	\$8,310,162	181	\$9,335,073	201
Private	\$18,013,096	595	\$22,624,927	708	\$26,177,059	710	\$24,172,581	689	\$23,577,452	626
State Fund	\$23,198,529	790	\$27,851,630	713	\$26,799,636	686	\$24,908,175	722	\$40,172,896	889
UEF	\$59,600	5	\$68,815	8	\$587,132	10	\$595,846	13	\$404,918	13
Total	\$47,748,469	1,626	\$57,176,195	1,653	\$58,869,002	1,561	\$57,986,764	1,605	\$73,490,339	1,729

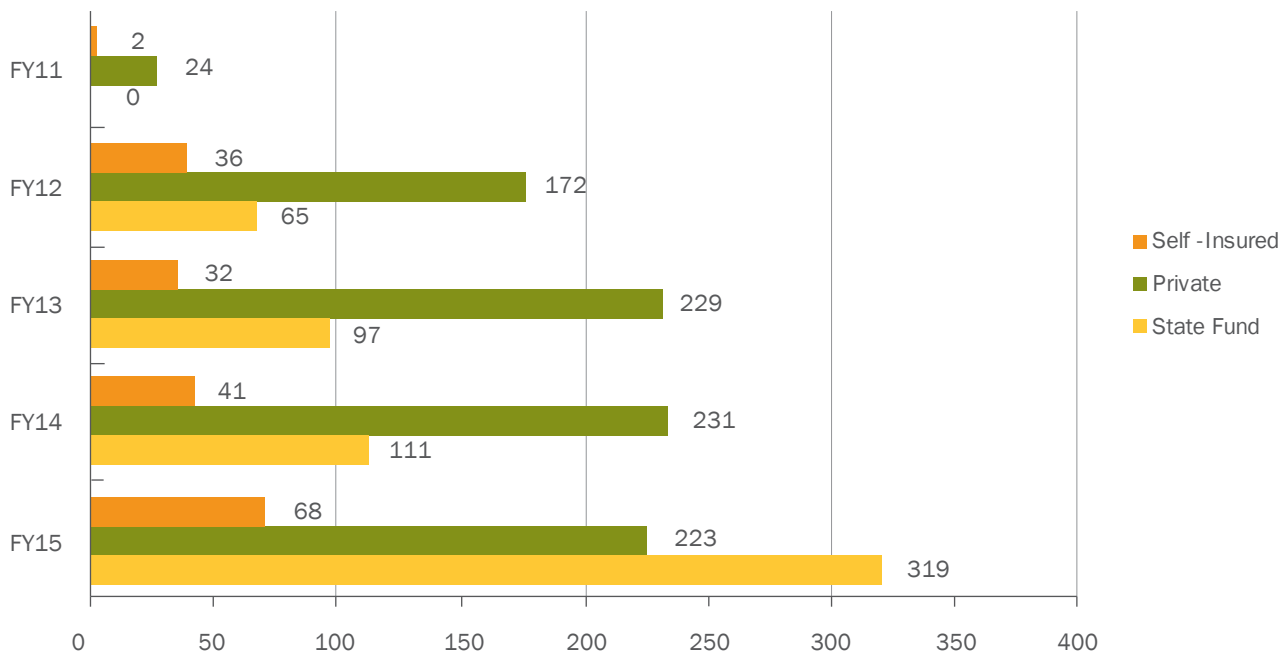
SETTLEMENT OF MEDICAL BENEFITS FOR BEST INTEREST

In March 2011, the Montana Legislature passed a law that allowed for undisputed future medical benefits to be settled on an accepted claim if the claimant has reached maximum medical improvement, regardless of the date of injury. Petitions for settlement of medical benefits for “best interest” require a rationale for the settlement, a statement of why it’s in the best interest of the parties to settle the medical benefits, and a signed acknowledgment from the injured worker.

The following three Exhibits show medical settlements for best interest since the law went into effect in April 2011, by fiscal year of injury. Exhibit 3.26 shows the number of settlements approved for each payer type. Exhibit 3.27 illustrates the total medical dollars settled by payer, for those settlements (93%) where we could determine the settlement amount allocated for medical. Exhibit 3.28 shows the dollar amounts in ranges settled by all payers. Most claims (76%) were settled for \$30,000 or less.

Exhibit 3.26

Number of Settlements for Best Interest By Plan Type and Fiscal Year of Decision



SETTLEMENT OF MEDICAL BENEFITS FOR BEST INTEREST

Exhibit 3.27

Total Medical Settlement Amounts for Claims Settled for Best Interest By Plan Type and Fiscal Year of Decision

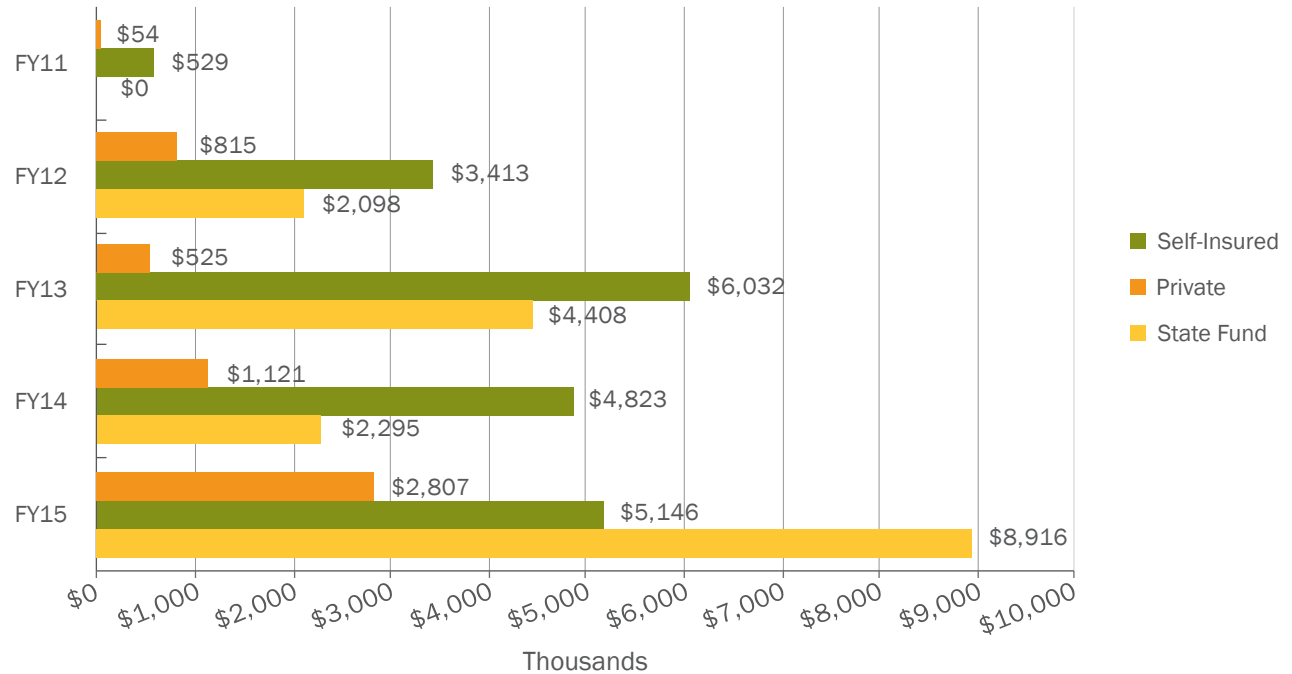
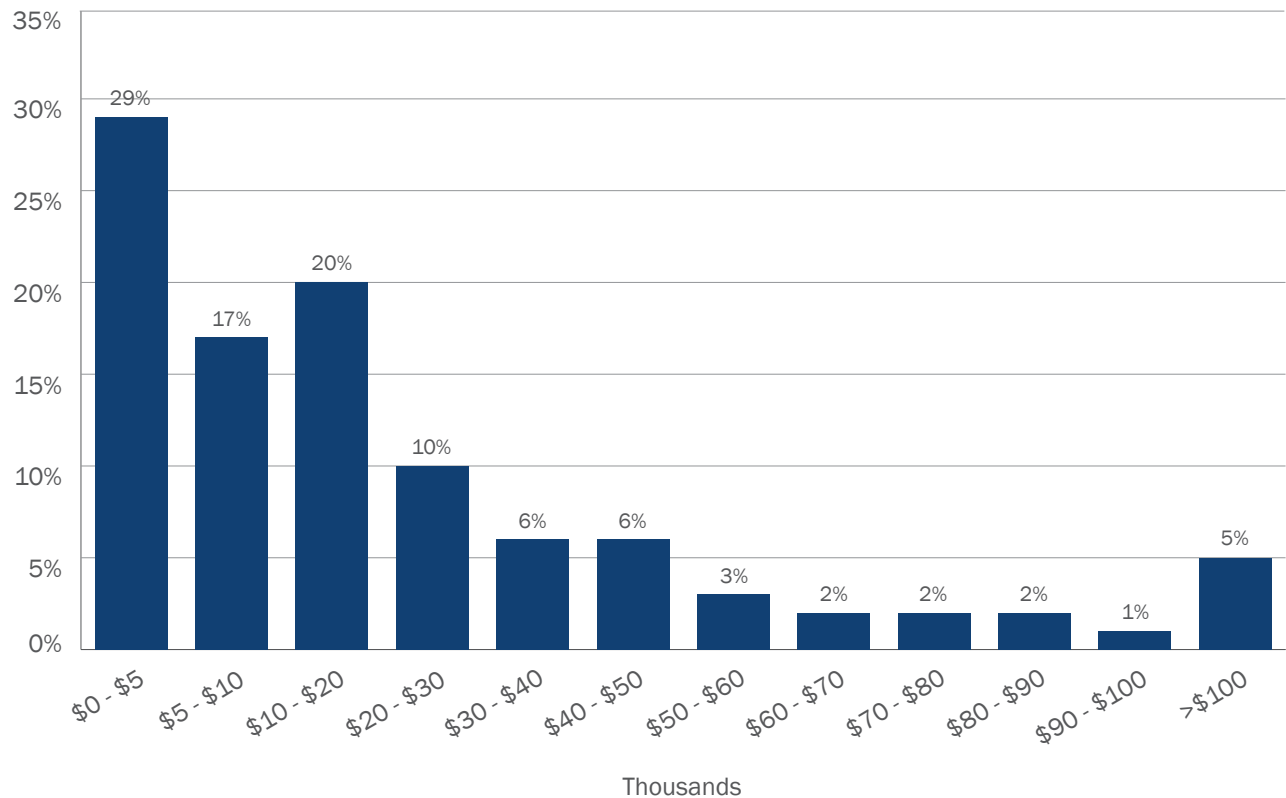


Exhibit 3.28

Settlement Distribution of Medical for Claims Settled for Best Interest FY11 to FY15



INJURED WORKER ATTORNEY FEES

Montana statute requires claimants' attorneys to submit a Legal Fee Report at regular intervals throughout the life of a claim (§39-71-613, MCA). The Legal Fee Report provides the amount of attorney fees received by attorneys, including attorney fees from workers' compensation settlements. Maximum legal fees are set by rule and

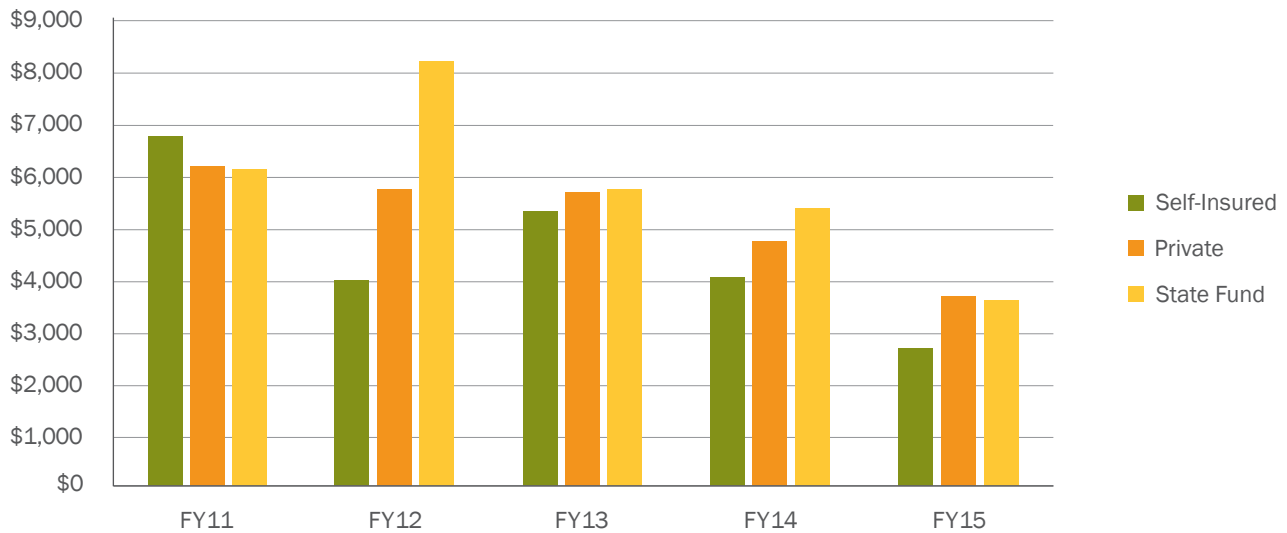
regulated by the department (ARM 24.29.3802). The Exhibits do not include miscellaneous costs.

Average and total attorney legal fees, by plan type and fiscal year of injury, are shown in Exhibits 3.29 and 3.30.

Exhibit 3.29

Average Attorney Legal Fees

By Fiscal Year of Injury



	FY11	FY12	FY13	FY14	FY15
Self-Insured	\$6,804	\$4,013	\$5,338	\$4,073	\$2,681
Private	\$6,242	\$5,798	\$5,728	\$4,751	\$3,652
State Fund	\$6,146	\$8,237	\$5,748	\$5,406	\$3,593

Exhibit 3.30

Total Attorney Legal Fees

By Plan Type and Fiscal Year of Injury

	FY11		FY12		FY13		FY14		FY15	
Plan Type	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Self-Insured	\$591,934	87	\$313,049	78	\$362,981	68	\$203,664	50	\$53,628	20
Private	\$1,785,215	286	\$1,600,354	276	\$1,638,200	286	\$798,215	168	\$419,934	115
State Fund	\$1,720,986	280	\$2,347,679	285	\$1,344,929	234	\$1,324,570	245	\$334,173	93
UEF	\$48,971	7	\$20,684	5	\$13,184	4	\$47,325	8	\$25,884	3
Total	\$4,147,106	660	\$4,281,765	644	\$3,359,294	592	\$2,373,775	471	\$833,618	231

INJURED WORKER ATTORNEY FEES

The department also collects legal fee information on approved workers' compensation settlements. The table below represents fees claimed in the fiscal year of the approved settlement, regardless of the fiscal year in which

the injury or occupational disease occurred. The following Exhibit shows that approximately 58% of all settlements in FY15 involved attorneys, and the average fee in proportion to the settlement amount was 14%.

Exhibit 3.31

Attorney Fees from Claimant Settlements

By Fiscal Year of Settlement

	FY11	FY12	FY13	FY14	FY15
Number of Settlement Petitions Processed	1,759	1,762	1,668	1,703	1,828
Claims Settled with Attorney Representation	1,010	1,071	1,001	1,047	1,069
Percent Claimants Represented by Attorney	57%	61%	60%	61%	58%
Total Settlement Amount with Attorney Involvement	\$38,074,626	\$45,621,909	\$46,975,691	\$46,844,624	\$57,467,532
Total Attorney Fees	\$4,978,434	\$6,097,382	\$6,025,433	\$6,548,615	\$7,928,611
Average Fee/Settlement Percentage	13%	13%	13%	14%	14%

INSURER LEGAL EXPENSES

Montana administrative rule requires insurance companies to report legal fees and costs associated with each indemnity claim (ARM 24.29.4335 & 24.29.4336). These costs are reported to ERD on the subsequent

report of injury at regular intervals throughout the life of a claim. Insurer legal expenses are represented in the following two Exhibits.

Exhibit 3.32

Average Insurer Legal Expenses per Claim By Plan Type and Fiscal Year of Injury

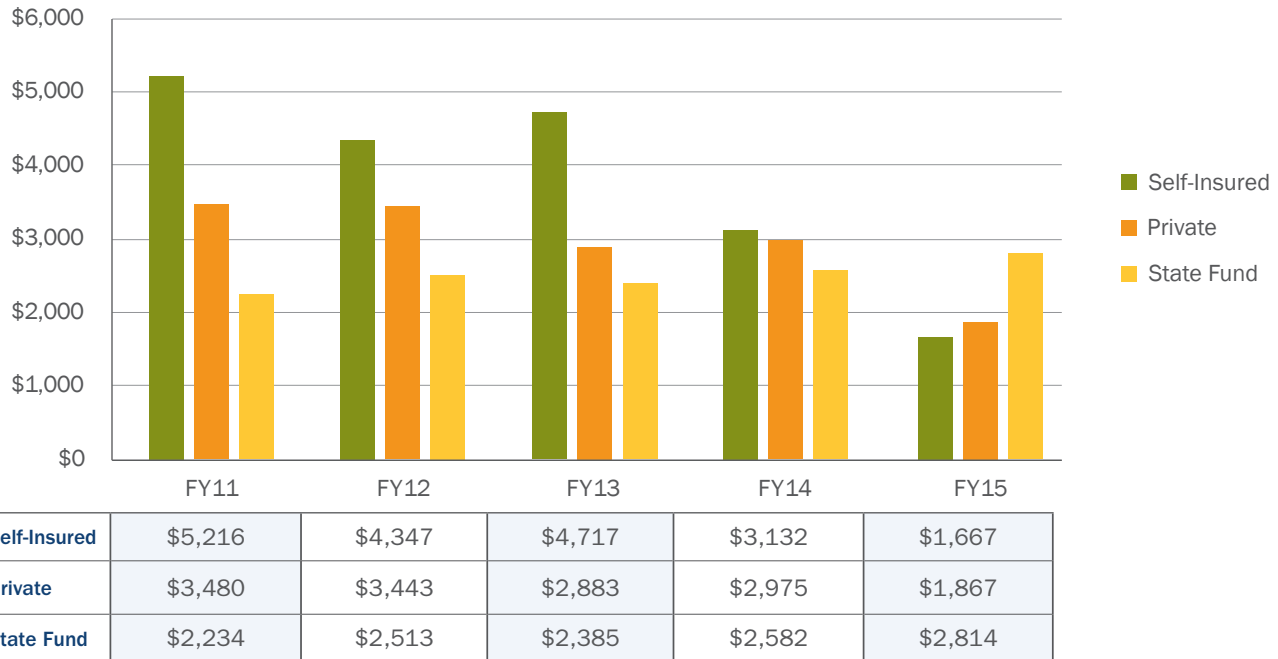


Exhibit 3.33

Total Insurer Legal Expenses By Plan Type and Fiscal Year of Injury

	FY11		FY12		FY13		FY14		FY15	
Plan Type	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Self-Insured	\$542,414	104	\$434,654	100	\$438,683	93	\$228,657	73	\$86,659	52
Private	\$1,103,099	317	\$957,164	278	\$827,495	287	\$508,781	171	\$240,893	129
State Fund	\$592,066	265	\$517,611	206	\$429,288	180	\$485,406	188	\$306,774	109
Total	\$2,237,579	686	\$1,909,429	584	\$1,695,466	560	\$1,222,844	432	\$634,326	290

Section

4

DISPUTE RESOLUTION

- Mediation
- Contested Case Hearings
- Workers' Compensation Court
- Significant Workers' Compensation Cases
- Supreme Court Decisions On Workers' Compensation



MEDIATION

The Workers' Compensation Mediation Unit of ERD administers a mandatory process for resolving disputes concerning benefits for both occupational injury and disease claims. The mediation process is confidential, non-binding and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are usually by telephone, but can be held in person in Helena upon request. Often more than one conference is held in order to resolve the disputes on a claim.

When resolved at the Mediation level, all parties benefit as the litigation costs on a claim are reduced for the insurer and the employer, and the injured worker is able to find resolution more quickly than if he/she had to proceed to the Workers' Compensation Court (WCC). In addition, the costs in time and money for the WCC are also reduced by eliminating cases from the court's docket. If disputes are not resolved at Mediation, the parties may proceed to the WCC.

In FY15, the Mediation Unit received and processed 1,291 petitions, which involved 1,364 claims. A petition is a request for mediation and may include multiple claims, multiple issues and/or multiple insurers.

Exhibit 4.1

Claims in Mediation

By Plan Type and Fiscal Year of Receipt

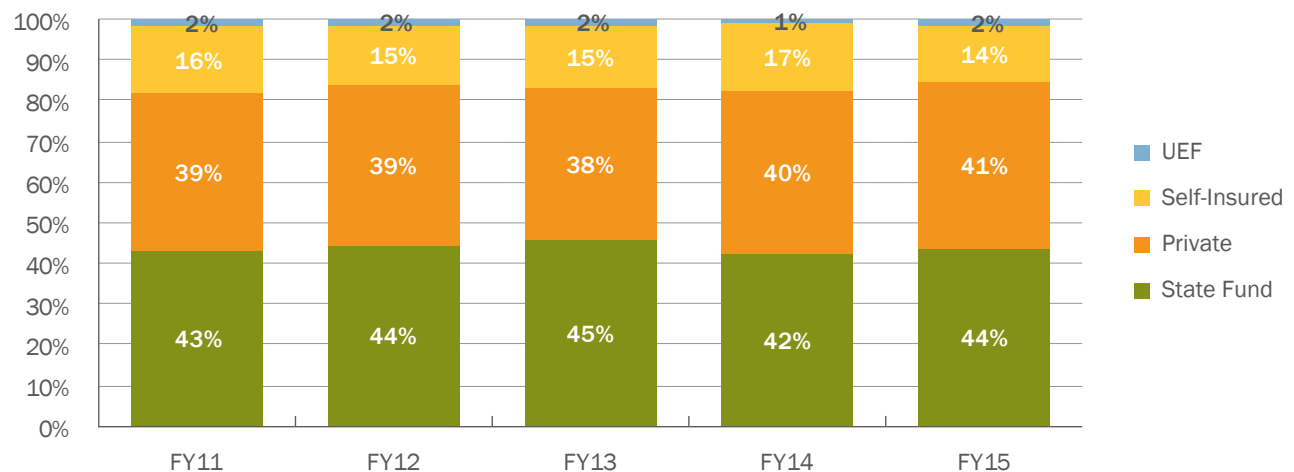


Exhibit 4.2

Claims in Mediation

By Plan Type and Fiscal Year of Receipt

	FY11		FY12		FY13		FY14		FY15	
Plan Type	Count	%	Count	%	Count	%	Count	%	Count	%
Self-Insured	245	16%	226	15%	200	15%	230	17%	186	14%
Private	602	39%	601	39%	497	38%	554	40%	557	41%
State Fund	665	43%	680	44%	598	45%	585	42%	596	44%
UEF	34	2%	24	2%	22	2%	15	1%	25	2%
Total ¹	1,546	100%	1,531	100%	1,317	100%	1,384	100%	1,364	100%

¹Total counts represent the number of claims, not the number of petitions.

MEDIATION

For the past five fiscal years, the mediation process maintained an average resolution rate of 80%. For the same five year period, the average completion time (from receipt of Petition to written Recommendation) is 34 days

for mediations not rescheduled or pended (for additional activity by one or more of the parties), 21 days earlier than allowed by Administrative Rule.

Exhibit 4.3

Percent of Mediation Petitions Resolved

By Fiscal Year of Receipt

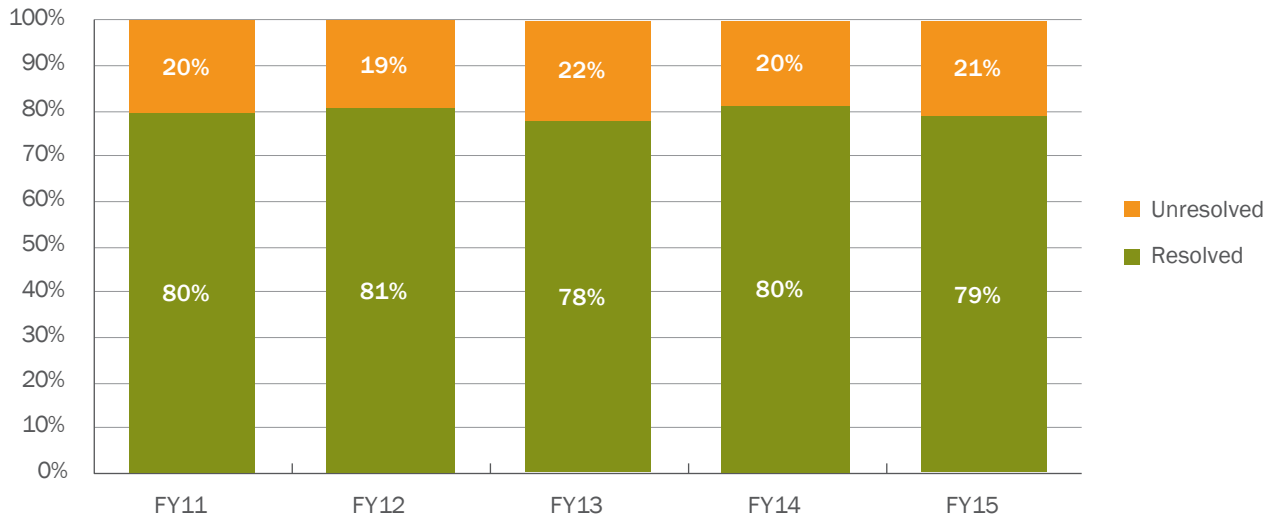


Exhibit 4.4

Mediation Petitions

By Fiscal Year of Receipt

	FY11		FY12		FY13		FY14		FY15	
Petitions	Count	%	Count	%	Count	%	Count	%	Count	%
Pending ²	0	0%	2	0%	5	0%	42	3%	77	6%
Closed	1,374	100%	1,373	100%	1,209	100%	1,221	97%	1,214	94%
Total Received	1,374	100%	1,375	100%	1,214	100%	1,263	100%	1,291	100%
Resolved	1,094	80%	1,106	81%	943	78%	992	81%	954	79%
Unresolved	280	20%	267	19%	266	22%	229	19%	254	21%
Total Closed	1,374	100%	1,373	100%	1,209	100%	1,221	100%	1,208	100%

²Eventual outcome of pending petitions will affect percent resolved.

MEDIATION

Disputes brought to mediation cover the entire spectrum of workers' compensation benefit issues. Most often the dispute is between an insurer or insurers and an injured worker. Disputes also occur between the Uninsured Employers' Fund and either the injured worker or the

employer. Exhibits 4.5 and 4.6 show mediations by benefit issue. The detailed subjects included in each category are described in the Appendix under "Mediation Benefit Issues".

Exhibit 4.5

Mediation Petitions

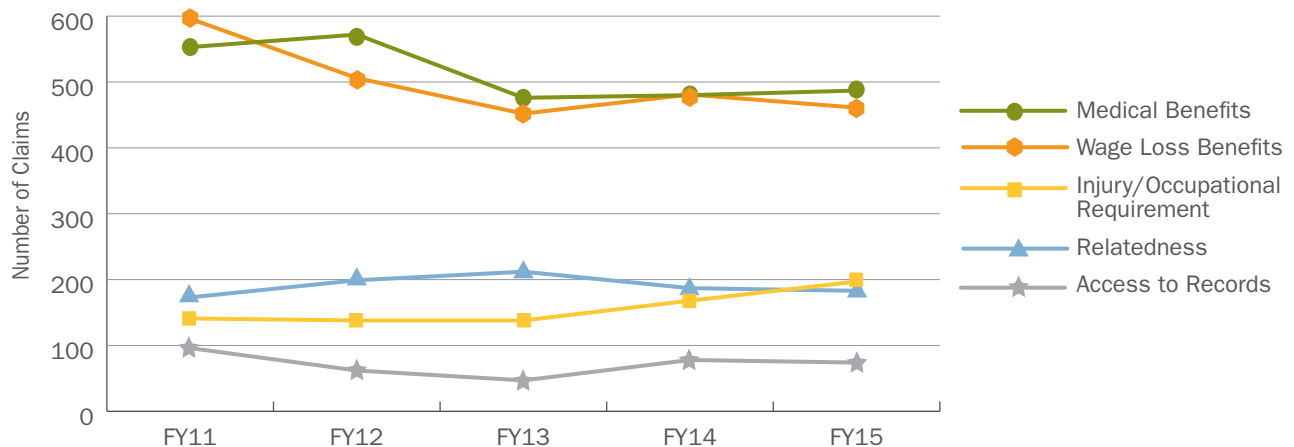
By Benefit Issue and Fiscal Year of Receipt

	FY11	FY12	FY13	FY14	FY15
Medical Benefits	553	572	476	480	487
Wage Loss Benefits	596	506	452	481	461
Injury/Occupational Requirement	141	138	138	168	197
Relatedness	173	199	212	187	183
Access to Records	96	62	47	78	74
Course and Scope	56	43	63	54	61
Notice/Filing Time	78	87	61	61	53
Employment/Insurance Coverage	29	28	30	21	35
Rehab Benefits	36	31	22	29	25
Calculation of Wages	35	41	30	25	23
Other	143	152	122	99	94
Total	1,936	1,859	1,653	1,683	1,693

Exhibit 4.6

Mediation Petitions

By Top 5 Benefit Issues and Fiscal Year of Receipt



CONTESTED CASE HEARINGS

The DLI Office of Administrative Hearings (OAH) holds contested case hearings, including appeals of Department Orders. For workers' compensation purposes, these appeals most typically include uninsured employer's

penalty determinations and entitlement to benefits from the Subsequent Injury Fund or Silicosis Fund. In FY15, OAH received one new request for a contested case hearing. The request was an uninsured employer case.

Exhibit 4.7

Petitions Received by the Office of Administrative Hearings

By Plan Type and Fiscal Year

	FY11		FY12		FY13		FY14		FY15	
Plan Type	Count	%	Count	%	Count	%	Count	%	Count	%
Self-Insured	0	0%	0	0%	0	0%	1	33%	0	0%
Private	0	0%	0	0%	0	0%	0	0%	0	0%
State Fund	1	33%	0	0%	0	0%	0	0%	0	0%
UEF	2	67%	0	0%	1	50%	1	33%	1	100%
Other	0	0%	0	0%	1	50%	1	33%	0	0%
Total	3	100%	0	100%	2	100%	3	100%	1	100%

WORKERS' COMPENSATION COURT

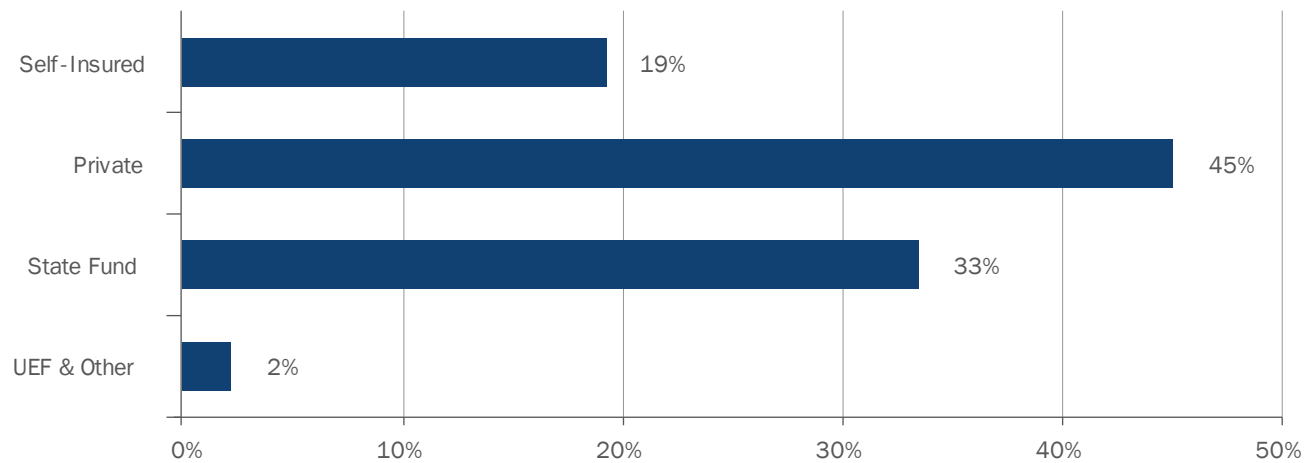
The Workers' Compensation Court (WCC) resolves disputes between workers injured as a result of occupational injuries or diseases, and insurers or employers. The court has original jurisdiction over benefit issues arising under the Workers' Compensation Act. For an injury occurring after July 1, 1987, disputes must first be mediated through the ERD Mediation Unit. The court's exclusive jurisdiction also extends to disputes involving independent contractor exemptions under both

the Workers' Compensation and Unemployment Insurance Acts, civil penalties for theft of workers' compensation benefits, and the two-year return to work preference specified in section §39-71-317(2), MCA.

Further information on the Workers' Compensation Court can be found on their website: www.wcc.dli.mt.gov/wcourthome.asp.

Exhibit 4.8

Percent of Petitions Received by the WCC – FY15 By Case Type³



³The Workers' Compensation Act provides for three separate "plans", i.e. Self-Insured, Private Insured, and Montana State Fund. The court breaks down its case types further for statistical purposes, i.e. Self-Insured, Private Insured, Montana State Fund, Subsequent Injury Fund, Uninsured Employers' Fund, Independent Contractor Central Unit (ICCU), and Department of Labor and Industry (DLI).

WORKERS' COMPENSATION COURT

Exhibit 4.9

Petitions Received by the WCC

By Case Type⁴ and Fiscal Year of Receipt

	FY11		FY12		FY13		FY14		FY15	
Case Type	Count	%	Count	%	Count	%	Count	%	Count	%
Self-Insured	12	5%	8	4%	26	12%	39	19%	43	19%
Private	103	44%	97	47%	99	45%	82	40%	101	45%
State Fund	103	44%	92	44%	83	38%	76	37%	75	33%
UEF & Other	15	6%	10	5%	10	5%	9	4%	5	2%
Total	233	100%	207	100%	218	100%	206	100%	224	100%

⁴Petitions may involve more than one case type.

Exhibit 4.10

Decisions by the WCC

By Fiscal Year of Receipt

Decisions	FY11	FY12	FY13	FY14	FY15
Decisions	167	170	199	174	178
Substantive Orders	28	13	40	34	31
Orders on Cost	3	4	7	4	4
Bench Rulings without Written Decisions	1	0	0	0	0
Attorney Fee Orders	1	0	5	1	2
Orders on Appeal	0	0	3	1	0
Subtotal	200	187	254	214	215
Petitions Dismissed by Agreement	41	42	40	52	22
Total	241	229	294	266	237

Exhibit 4.11

Full and Final Compromise Settlements by the WCC

By Case Type and Fiscal Year of Receipt

Case Type	FY11	FY12	FY13	FY14	FY15
Self-Insured	2	4	1	3	2
Private	4	4	3	11	5
State Fund	2	5	6	7	6
UEF	0	0	0	0	0
Total	8	13	10	21	13

SIGNIFICANT WORKERS' COMPENSATION CASES

Case summaries are taken from the Workers' Compensation Court website: www.wcc.dli.mt.gov.

In the Workers' Compensation Court of the State of Montana:

ROBERT WOMMACK vs. NATIONAL FARMERS UNION PROPERTY & CASUALTY, CO.; NATIONWIDE MUTUAL FIRE INS CO.; MONTANA STATE FUND; CHS INC.; LIBERTY MUTUAL FIRE INS CO.; and DOES 1-5, inclusive 2015 MTWCC 5

Summary: Respondent CHS Inc. moves for summary judgment on the grounds that it is not liable for Petitioner's OD under the last injurious exposure rule, as codified in § 39-72-303(1), MCA (1997). Petitioner worked at the Cenex refinery in Laurel when he was exposed to asbestos. After Petitioner left employment with Cenex, Cenex was part of the merger that formed CHS Inc., which is a self-insured employer. CHS Inc. argues that it is not liable because it was never Petitioner's employer's insurer and, therefore, not the insurer at risk when Petitioner was exposed to the hazards of his alleged OD.

Held: Since Petitioner left employment before his employer merged with another company and became CHS Inc., a self-insured employer, he was never injuriously exposed to the hazard of his alleged OD while CHS Inc. was the insurer at risk. In a recent case involving asbestos exposure at the Cenex refinery, the Montana Supreme Court explained, "liability for and administration of [an OD] claim should correspond with the period in which the injurious exposure occurred." There is no genuine issue of material fact as to CHS Inc.'s liability and, therefore, CHS Inc. is entitled to judgment as a matter of law.

ROBERT WOMMACK vs. NATIONAL FARMERS UNION PROPERTY & CASUALTY, CO.; NATIONWIDE MUTUAL FIRE INS CO.; MONTANA STATE FUND; CHS INC.; LIBERTY MUTUAL FIRE INS. CO.; and DOES 1-5, inclusive 2015 MTWCC 7

Summary: Respondent National Farmers Union Property & Casualty Co. moves for summary judgment, arguing that it is not liable for Petitioner's OD. Inter alia, National Farmers Union Property & Casualty Co. argues that it is not liable under the last injurious exposure rule because Petitioner was exposed to asbestos at work for years after its coverage ended. Petitioner opposes the motion but does not specifically argue that National Farmers

Union Property & Casualty Co. is or could be liable. Neither Respondent Nationwide Mutual Fire Ins. Co. nor Respondent Montana State Fund opposes the motion. Respondent Liberty Mutual Fire Ins. Co. opposes the motion to argue that the 1997 WCA is applicable and that it is not liable under the last injurious exposure rule; however, it does not argue that National Farmers Union Property & Casualty Co. is or could be liable.

Held: National Farmers Union Property & Casualty Co. is entitled to summary judgment under the last injurious exposure rule. The undisputed facts show that Petitioner was exposed to asbestos "on a daily basis" for years after National Farmers Union Property & Casualty Co.'s coverage of Petitioner's employer ended, while other insurers were insuring his employer.

CRISTITA MOREAU, individually and as Personal Representative of the Estate of Edwin Moreau vs. TRANSPORTATION INSURANCE CO. 2015 MTWCC 17

Summary: The decedent's employer moved to be joined under M.R.Civ.P 19 and 20, or to intervene under M.R.Civ.P 24, arguing that it had an interest in the litigation because it already paid the decedent's medical bills via an entity it had funded and because it has agreed to indemnify Respondent/Insurer for any occupational disease benefits Respondent/Insurer pays. It argues it would be forced to pay the decedent's medical benefits twice if Petitioner prevails. Petitioner argues that the employer cannot be liable for occupational disease benefits and that this Court has no jurisdiction to resolve a contract dispute between the employer and Respondent/Insurer if a dispute arises over the indemnity agreement.

Held: The employer's motion to be joined or to intervene is denied. Respondent/Insurer is the only entity that can be liable for occupational disease benefits. While the decedent's medical bills were paid by an entity that the employer funded and while the employer has agreed to indemnify Respondent/Insurer, neither the amounts the employer paid to fund the entity, the payments the entity made, nor the amounts that the employer might be required to pay under its indemnity agreement are "medical benefits" under § 39-71-704, MCA. The employer's interests are secondary and arise from a separate agreement with the Respondent/Insurer, which is outside of this Court's jurisdiction. The employer's interests are aligned with Respondent/Insurer's, which has and continues to vigorously defend this case.

SIGNIFICANT WORKERS' COMPENSATION CASES

T. B. vs. MONTANA STATE FUND 2015 MTWCC 18

Summary: Respondent moved to compel Petitioner to produce posts from her Facebook page, including posts she designated as “private.” Petitioner objected on the grounds of privacy and on the basis that some of her posts might be privileged.

Held: Respondent’s motion to compel is granted because its request for production is reasonably calculated to obtain evidence relevant to the issues in this case, including evidence tending to prove or disprove Petitioner’s claim that her injury and occupational disease make it difficult for her to engage in physical activities, including typing and using a computer.

THE ESTATE OF ROBERT R. GREER, JR., DIANE BELCOURT, and KRB, minor child vs. LIBERTY NORTHWEST INS. CORP. 2016 MTWCC 2

Summary: Petitioners sought benefits after the decedent suffered a motor vehicle accident while traveling from Bozeman to Ekalaka for the start of his workweek at a construction jobsite. In addition to his wages, the decedent’s employer paid him \$60 per diem for each full day worked. Respondent denied liability, arguing that the decedent was not in the course and scope of his employment and therefore not entitled to benefits under § 39-71-407(3), MCA.

Held: The decedent received reimbursement for travel costs from the employer in the form of a per diem and his employment necessitated his travel. Therefore, his death arose out of and within the course of his employment under the travel allowance exception to the going and coming rule, as codified in § 39-71-407(3)(a)(i), MCA. The decedent was not excluded from coverage under § 39-71-407(3)(b), MCA, because the employer did not make the payment under the terms of a written document that designated the payment as an “incentive to work at a particular jobsite.”

CLOY HARTUNG vs. MONTANA STATE FUND 2016 MTWCC 3

Summary: Petitioner maintains that the settlement of his workers’ compensation claim should be reopened or rescinded because he lacked the mental capacity to consent to the settlement or because his consent to settle was obtained through undue influence. Respondent counters that the facts of the case do not show any

undue influence exerted on Petitioner to settle his claim, and the fact that Petitioner has entered into two marriages, a dissolution of marriage, and two attorney retainer agreements with his current legal counsel is evidence of his capacity to contract. Respondent also points out that Petitioner does not have a guardian or a conservator appointed to help him manage his affairs, and he has never been adjudicated incompetent.

Held: Petitioner has failed to prove he lacked the mental capacity to understand the terms of the Petition for Settlement and has failed to prove that Respondent exerted undue influence over him. He is not entitled to reopen or rescind the settlement on the grounds asserted.

SUPREME COURT DECISIONS ON WORKERS' COMPENSATION

NEWLON V TECK AMERICAN, INC DA 15-0013

Summary: Newlon worked as a miner for over 20 years for Teck American (a self-insured employer), during which time he sustained several injuries including three to his left knee, in 1974, 1978 and October 3, 1991. In 1996 Assistant Manager Moore and Newlon discussed settlement of all his workers' compensation claims, with Moore promising lifetime medical benefits. A settlement agreement was reached for \$25,000, settling indemnity benefits, with the special provision that "the medical is retained by the claimant or left open in the two cases indicated, but closed in all others." Those two claims were for "lower back" and "left knee." Following the settlement Newlon treated for his knee in 1996, 2000, and 2007, which Teck covered without referencing the 60 month rule. In 2012 a total knee replacement was recommended. Teck denied pursuant to 39-71-704(1)(d), MCA, (1991) (aka the 60 month rule), but agreed to pay for treatment under reservation of rights. The WCC found the case governed by 1991 law; that Newlon's claim was not barred by a superseding intervening cause; and that Teck was equitably estopped from denying medical benefits under the 60 month rule.

Held: WCC affirmed. The Supreme Court held Assistant Manager Moore promised lifetime medical benefits for knee and back throughout the negotiations, creating an enforceable contract granting Newlon lifetime coverage for his knee and back injuries. The Court also found nothing precluding an employer from promising more than provided in statute.

The Court distinguished the finding here from the finding in *Wiard v Liberty Northwest*. In *Wiard*, unlike Newlon, there was no promise to pay lifetime medical.

GEORGE V BOWLER DA 14-0582

Summary: George was employed as a warehouse manager for Carpets Plus, a corporation owned by Curtis and Jean Bowler. George was injured while assembling carpet racks in an uncompleted warehouse. George filed a workers compensation claim under which benefits were paid. George then filed against the Bowlers in their individual capacities as property owners and general contractors of the warehouse, alleging among other things, failure to provide a safe work place. The Bowlers asserted the exclusivity provision, 39-71-411, MCA as an affirmative defense. The District Court granted summary

judgement in favor of the Bowlers. George argued the Bowlers were acting as property owners, not as corporate officers of Carpet Plus, during installation of the carpet racks.

Held: Fourth Judicial District affirmed. The Court held separate legal entities are not third parties (subject to suit) when they are acting within the course and scope of the employment as co-employees of the plaintiff at the times the plaintiff alleges they were negligent. Because the undisputed evidence shows that the Bowlers were acting within the course and scope of their employment for Carpets Plus at the time they were alleged to have failed to provide a Carpets Plus employee with a safe place to work, they are protected from suit by the exclusivity provision, 39-71-411, MCA.

Section

5

DEPARTMENT ADMINISTERED PROGRAMS

- Workers' Compensation System Administration
- Organizational Charts
- Workers' Compensation Assessments As Expended
- Subsequent Injury Fund
- Uninsured Employers' Fund
- Construction Contractor Registration
- Independent Contractor Exemption Certificates
- Professional Employer Organizations
- Safety & Health
- Stay at Work/Return to Work
- Claims Examiner Certification
- Independent Medical Reviews
- Five-Year Closure of Medical Benefits



WORKERS' COMPENSATION SYSTEM ADMINISTRATION

The Employment Relations Division (ERD) provides a wide variety of services and regulations related to workers' compensation and occupational safety and health.

WORKERS' COMPENSATION REGULATIONS BUREAU

The **Insurance Compliance Unit** regulates private workers' compensation carriers (Plan 2), issues and enforces licenses for Professional Employer Organizations (PEO), and processes and monitors extra-territorial reciprocal agreements with Washington, Oregon, Idaho, Wyoming, Utah, North and South Dakota. The unit also processes Subsequent Injury Fund (SIF) applications and reimburses insurers for eligible SIF expenses.

The **Construction Contractor Registration Unit** ensures construction businesses with employees register and are in compliance with workers' compensation requirements. The unit publicizes and educates the public about the contractor registration program.

The **Independent Contractor Central Unit (ICCU)** educates the public and enforces compliance with the Workers' Compensation Act with regards to independent contractors through community outreach opportunities, onsite visits, and community wide 'sweeps'. ICCU issues independent contractor exemption certificates (ICEC), investigates working relationships and issues decisions on employment status for the Department of Revenue, Labor Standards, Unemployment Insurance, Human Rights and Uninsured Employers' Fund.

The **Self-Insurance Unit** approves and regulates qualified private and public employers to be self-insured for the purposes of workers' compensation coverage for their employees.

The **Uninsured Employers' Fund Unit** enforces coverage requirements for all employers, pays benefits to injured workers whose employers did not have workers' compensation coverage, and manages the fund from which benefits are paid.

WORKERS' COMPENSATION CLAIMS ASSISTANCE BUREAU

The **Claims Assistance Unit** works closely with insurers and adjusting companies handling workers' compensation claims to ensure compliance with workers' compensation statutes and administrative rules. The unit assists injured workers to better understand the workers'

compensation system, answers their questions, serves as a liaison between the injured worker and their insurer or adjusting company, and regulates attorney fees. The unit administers the Claims Examiner Certification process, which includes an examination, a two year certification and renewal process, continuing education credits and instructor certification. The unit also administers the Stay at Work/Return to Work (SAW/RTW) program, which works with injured workers, employers, insurers and health care providers to expedite the process of returning an injured worker to work as soon as possible. In situations where the insurer cannot be identified or is not providing assistance, the program will provide the assistance. Beginning in April of 2016, the unit, in conjunction with the Medical Regulations Unit, will administer the process for petitions from injured workers to request the reopening of closed medical benefits.

The **Data Management Unit** is responsible for the collection, data quality and maintenance of workers' compensation claim and injury information. The unit uses the claim data and other information sources to complete a comprehensive annual report on workers' compensation for the Governor and the legislature, along with performing varied research on the workers' compensation system and related topics. Unit staff work directly with insurers and third party administrators to ensure compliance with Montana claim reporting requirements and adherence to national standards.

The **Mediation Unit** is responsible for the statutorily required process to resolve workers' compensation benefit disputes, mitigating the need for filing with the Workers' Compensation Court (WCC). Parties in dispute meet with impartial mediators in a confidential, nonbinding conference to seek resolution. Conference results range from complete resolution/agreement between the parties to negotiated settlement of the claim. If the process is not successful in resolving the issues, a written recommendation is provided and the parties are free to pursue the matter at the WCC.

The **Medical Regulations Unit** is the primary liaison for the Department with providers, claims examiners and insurers who have questions, need assistance or require direction on all issues relating to the medical regulation of workers' compensation claims, including medical fee schedules, utilization and treatment guidelines, and timely payments. The unit maintains and updates medical fee schedules for providers and payers and ensures access through a web based delivery system. The unit has a Medical Director, who is responsible for the maintenance,

WORKERS' COMPENSATION SYSTEM ADMINISTRATION

annual updates, distribution and training of the Montana Utilization and Treatment Guidelines. The Medical Director also performs independent medical reviews for denied services and serves as the presiding officer of the medical review panel when an injured worker petitions to have their medical benefits reopened. The unit certifies injured workers for the Subsequent Injury Fund (SIF), applies the fee schedules to medical expenses, makes decisions on requested SIF settlements as needed, manages the SIF fund balance, and authorizes payments for eligible SIF expenses. Beginning in April of 2016, the unit, in conjunction with the Claims Assistance Unit, will administer the process for petitions from injured workers to request the reopening of closed medical benefits.

SAFETY & HEALTH BUREAU

The **Safety & Health Unit** conducts inspections of public employers and performs on-site consultations for private employers throughout the state. Following an inspection or consultation, the unit provides occupational safety and health training to both public and private employers.

The **Compliance Unit** has jurisdiction over public sector employers which include state agencies, county, city, public school & university workers. The goal is to improve worker safety, assist in reducing workplace injuries and ensure that each public employer provides a safe work environment for their employees. The unit performs public sector accident & fatality investigations, responds to safety complaints and performs unannounced workplace inspections. Additionally the unit audits public sector employer's compliance with the Montana Safety Culture Act (MSCA) and enforces the Montana Occupational Safety and Health Act (OSHA) to include the OSHA 1910 & 1926 safety standards. They issue a compliance report that identifies any deficiencies of the MSCA or safety hazards found during an inspection and the recommended abatement actions to eliminate the hazard. The unit promotes and shares industry best practices to assist in reducing public sector workplace injuries.

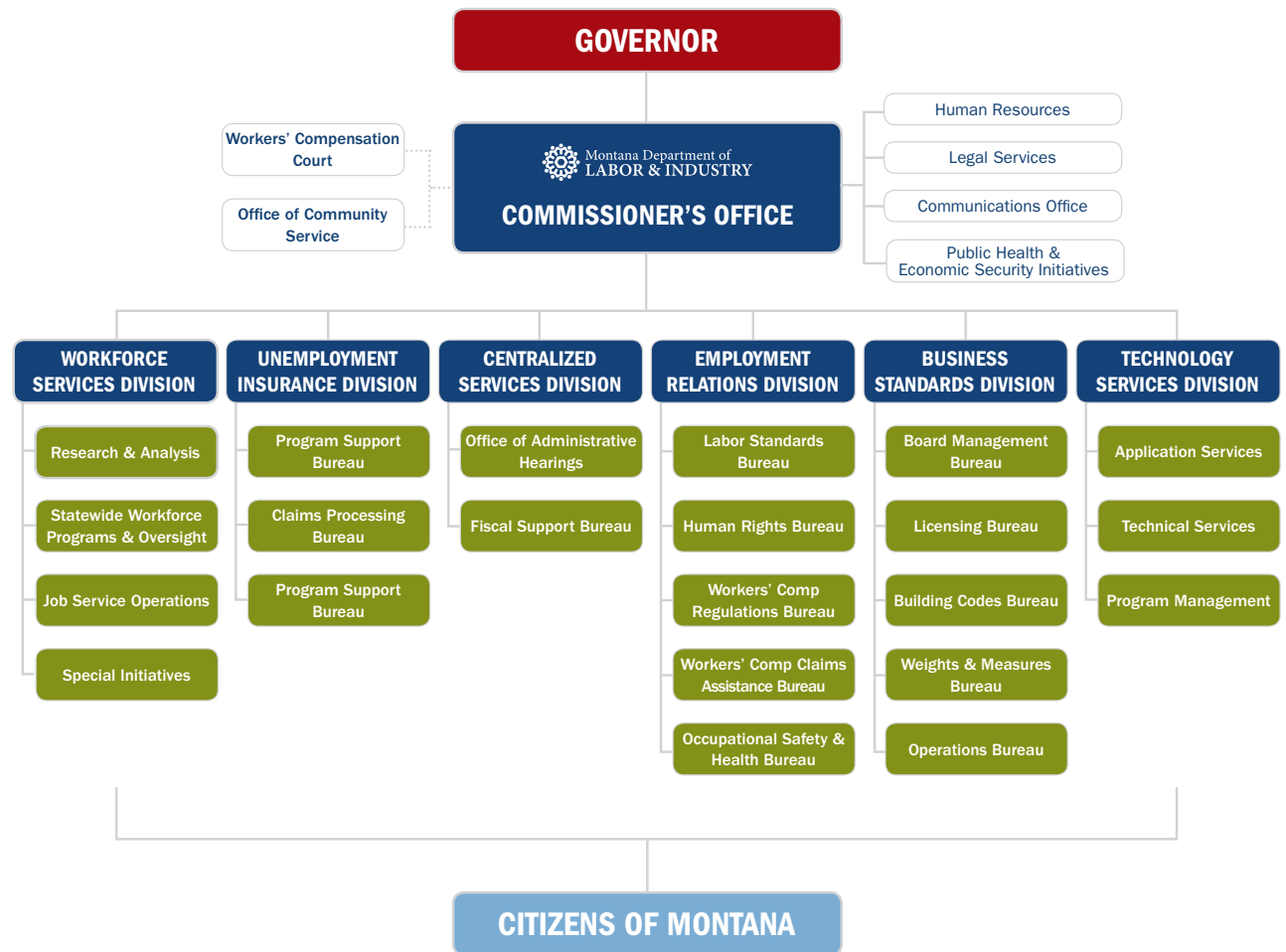
The **Mine Unit** is responsible for safety compliance and consultation in surface and underground coal mines and Mine Safety and Health Administration (MSHA) Part 46 operations (sand, gravel and dimensional stone). The unit provides centralized mine safety training throughout the State. The training includes MSHA Part 48 surface and underground new miner and annual refresher training. Additionally, they provide centralized First Aid/CPR, MSHA training plan development and Hazwoper refresher training.

The **Outreach and Education Unit** conducts presentations on the Montana Safety Culture Act and employer safety to business related organizations across the state. Young worker focused OSHA 10-hour courses are presented at high schools, colleges and youth organizations. The unit also conducts SafetyFests, which provide free occupational safety and health training to workers and employers, through events held around the state.

ORGANIZATIONAL CHARTS

Exhibit 5.1

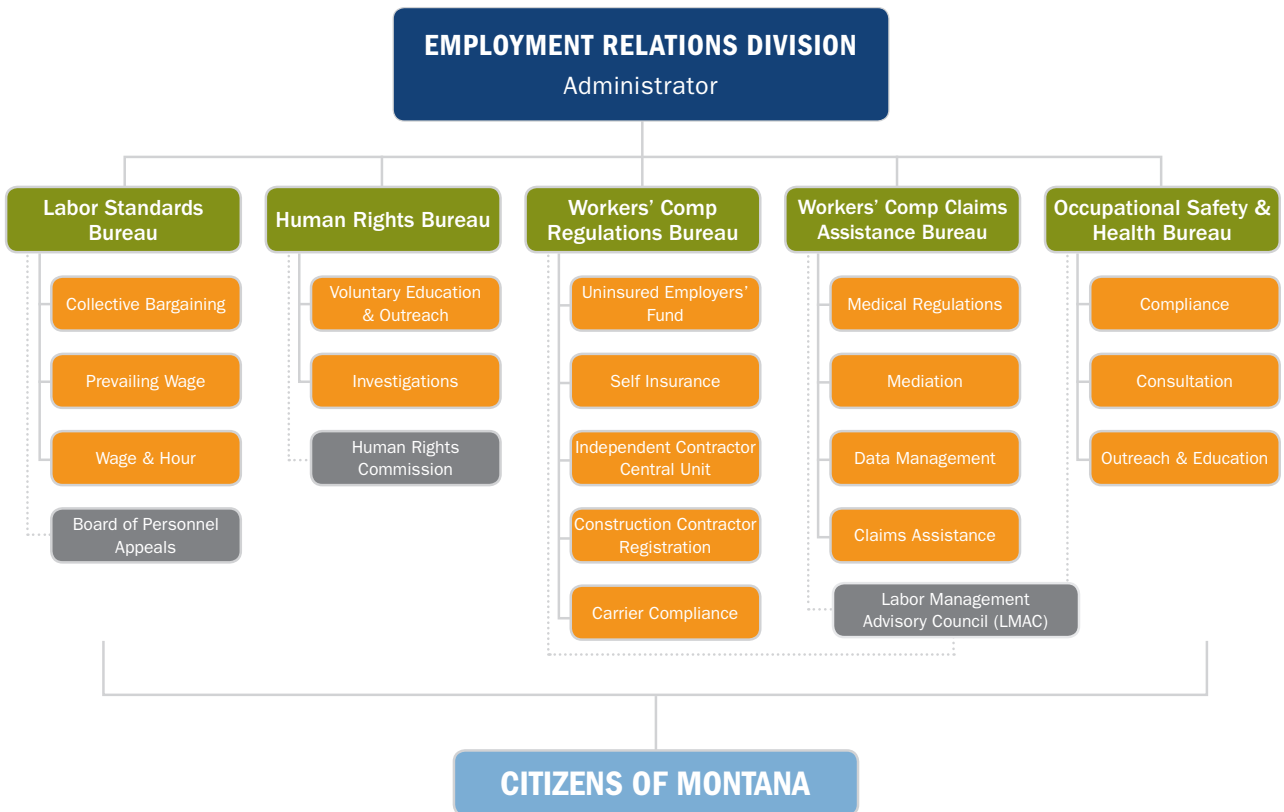
Montana Department of Labor & Industry



ORGANIZATIONAL CHARTS

Exhibit 5.2

Employment Relations Division



WORKERS' COMPENSATION ASSESSMENTS AS EXPENDED

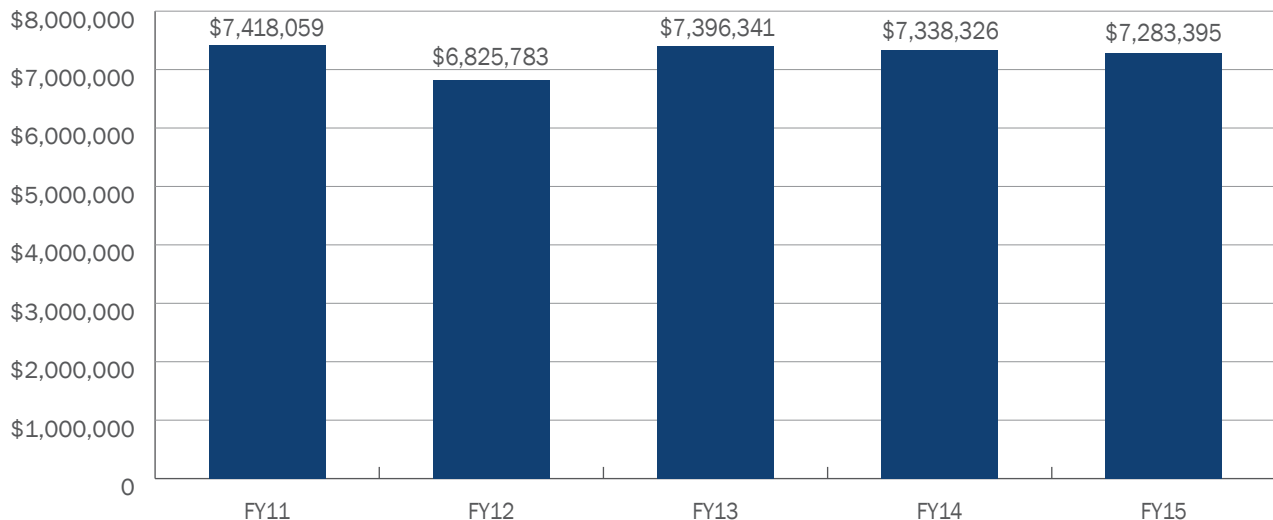
The administration of the Workers' Compensation Act and the various occupational safety laws is funded by an assessment to employers who self-insure and a surcharge paid by employers who are insured by private insurance companies or the Montana State Fund. Section §39-71-201, MCA, requires the administration assessment may be up to three percent of benefits paid during the preceding calendar year for injuries and occupational diseases covered under the Workers' Compensation Act, without regard to the application of any deductible, whether the employer or the insurer pays the losses. Benefits included in the calculation are: (1) compensation benefits paid and (2) medical benefits paid (except payments in excess of \$200,000 per occurrence, which are exempt from the assessment).

DLI functions funded by the administration assessment:

- Legal functions of the Workers' Compensation Court, Office of Administrative Hearings and Office of Legal Services;
- A portion of the Research & Analysis Bureau in the Workforce Services Division;
- Administration of the Employment Relations Division, including the workers' compensation database;
- Claims management, data analysis, mediation, medical regulations, and administration functions of the Claims Assistance Bureau;
- Self-insurance, carrier compliance, Professional Employer Organizations (except for a small portion funded by application fees), Managed Care Organizations and other administration functions of the Workers' Compensation Regulations Bureau; and
- Occupational safety statistics, public facility inspections, OSHA on-site consultation grant match, mining inspection, MSHA mine training grant match and safety culture functions of the Safety & Health Bureau.

Exhibit 5.3

Workers' Compensation Assessments as Expended¹ By Fiscal Year of Expenditure



¹A revised reporting method was used to display amounts spent in each fiscal year. Previously reported amounts for FY11 to FY13 were changed to be consistent with current reporting. Prior year adjustments made in the natural course of accounting may also change the totals slightly from year to year.

SUBSEQUENT INJURY FUND

The purpose of the Subsequent Injury Fund (SIF) is to assist individuals with a permanent impairment that may create an obstacle to employment, by offering a financial incentive to employers to hire SIF-certified individuals. Many states have similar funds, sometimes referred to as second injury funds. Montana's program is funded through an annual assessment on Montana self-insured employers and a surcharge on premium paid for private insured and Montana State Fund policyholders.

The assessment and surcharge rates, set by the ERD annually, are based on the total amount of paid losses reimbursed by SIF in the preceding calendar year, plus the expenses of administration, less other income earned. Covered employers share in the reimbursement of SIF based on the percentage of the compensation and medical benefits paid in Montana by their insurers in the preceding calendar year.

The SIF program reduces the liability of the employer (if self-insured) or insurer by placing a limit of 104 weeks on the amount an employer (if self-insured), or the employer's insurer, will have to pay for medical and wage loss benefits in the event a worker who is SIF-certified becomes injured or re-injured on the job. When the 104 weeks is reached, SIF may assume liability for the claim. The benefit to an insured employer is that since the insurer's liability is limited to 104 weeks on the claim, it can favorably impact the employer's modification factor, which in turn can keep premiums lower than would otherwise be the case without SIF. For a self-insured employer, it provides a direct recovery of expenses

paid for a workers' compensation claim. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers' Compensation Act.

STATUS UPDATE

The SIF program certified 366 workers from FY11 to FY15. It is notable that there continues to be a significant decline in the number of workers applying for certification to the program. However, even with exits of certified workers due to retirement and other factors, the total number of certified workers increased 5.2%, from 4,774 in FY11 to 5,022 in FY15. Although an increase in SIF certifications is one indicator that payments from the fund will increase over time, it is not the only indicator.

Payments, which are generally increasing, have fluctuated significantly from year-to-year. Two important factors influencing that fluctuation are: 1) the increase in the number of settlements seeking SIF concurrence and 2) the lag in the time from when reimbursements are made and assessments are received to replenish the fund balance. To address the latter issue, the 2015 legislative session included a provision in House Bill 90 that changed the look back date from the prior calendar year to March 31 of the current year when calculating the assessment. This change better aligns the reimbursements paid to carriers with the assessment income received and will be reflected in SIF assessments for FY17.

Exhibit 5.4

SIF Payments and Dollars Assessed

By Plan and Fiscal Year

	FY11		FY12		FY13		FY14		FY15	
Plan Type	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment	Payments	Assessment
Self-Insured	\$110,219	\$172,394	\$110,196	\$59,781	\$375,991	\$82,383	\$31,989	\$127,827	\$44,671	\$216,790
Private	\$115,125	\$357,840	\$153,050	\$147,592	\$278,648	\$65,624	\$219,437	\$365,669	\$287,916	\$514,133
State Fund	\$190,009	\$464,691	\$456,430	\$283,554	\$562,552	\$131,510	\$455,896	\$448,232	\$532,231	\$759,991
Total	\$415,353	\$994,925	\$719,676	\$490,927	\$1,217,191	\$279,517	\$707,322	\$941,728	\$864,818	\$1,490,914

SUBSEQUENT INJURY FUND

Exhibit 5.5

SIF Certified Workers

By Fiscal Year

	FY11	FY12	FY13	FY14	FY15
Applications	198	140	114	113	82
Approvals	118	83	74	54	37
Certified Workers	4,774	4,857	4,931	4,985	5,022

UNINSURED EMPLOYERS' FUND

The primary roles of the Uninsured Employers' Fund (UEF) are to provide medical and indemnity benefits to employees injured on the job while working for an uninsured employer and to ensure that employers comply with Montana's workers' compensation laws.

The UEF is self-funded. Two forms of revenue are collected from uninsured employers:

1. **Penalties.** UEF levies and collects penalties for the time that the employer was legally required to have a workers' compensation policy until they are in compliance. Penalties can be double the insurance premium that would have been paid by the employer, or \$200, whichever is greater. Penalties levied by UEF are based on the cost of the policy that should have been in place during the uninsured period, based on the company's industry code
2. **Recoupment of benefits paid.** The UEF endeavors to collect from uninsured employers all medical and indemnity benefits paid by UEF on behalf of injured employees.

STATUS UPDATE

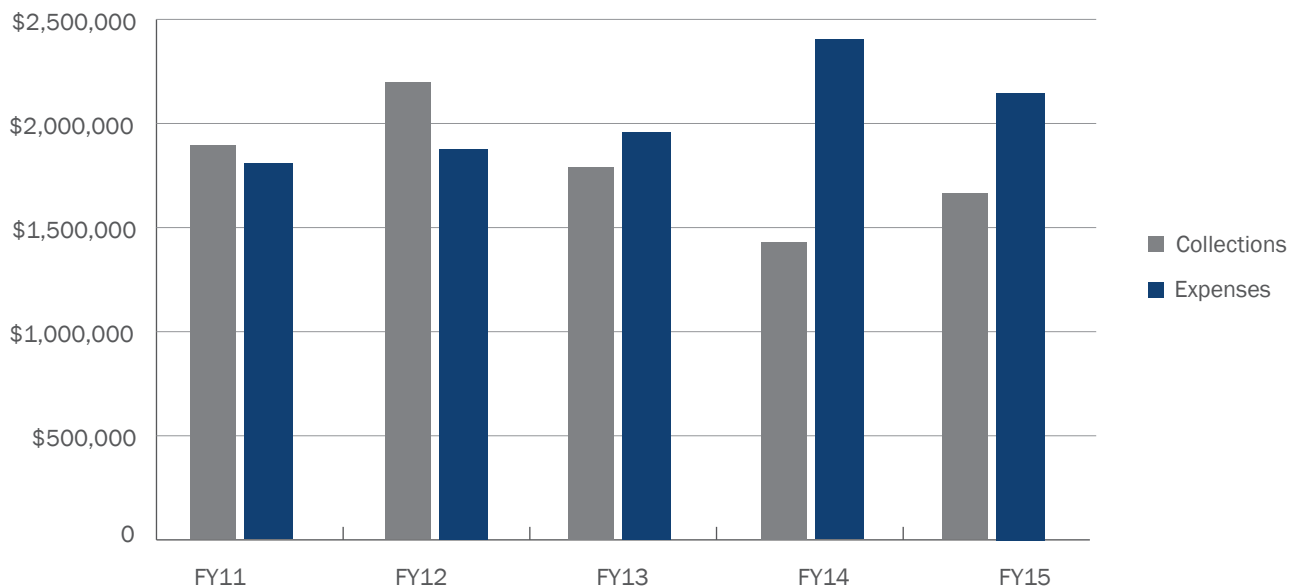
Revenues collected in a fiscal year do not necessarily reflect the penalties or claims costs being assessed for that fiscal year. Revenue includes both current and prior year debts that were successfully collected during the fiscal year. Revenues have declined because ERD has improved its ability to identify uninsured employers while bringing them into compliance sooner. This has reduced the penalties imposed, while expenses have remained about the same.

Indemnity benefits paid by the UEF to injured employees who worked for uninsured employers increased 46% from FY14. Medical expenses paid to claimants decreased 20%, due in part to the nature of the injuries, and the fact that there were fewer UEF claims in FY15.

The UEF processed 52 new claims (all dates of injury) in FY15. Forty-four claims were received with dates of injury in FY15, compared to 42 claims in FY14.

Exhibit 5.6

Uninsured Employers' Fund - Financial Activity By Fiscal Year of Payment



UNINSURED EMPLOYERS' FUND

Exhibit 5.7

Uninsured Employers' Fund - Financial Activity By Fiscal Year of Payment

	FY11	FY12	FY13	FY14	FY15
Collections	\$1,888,138	\$2,193,687	\$1,787,554	\$1,430,236	\$1,659,289
Expenses	\$1,805,804	\$1,873,743	\$1,958,522	\$2,400,458	\$2,148,756

Exhibit 5.8

UEF Medical and Indemnity Payments By Fiscal Year of Payment

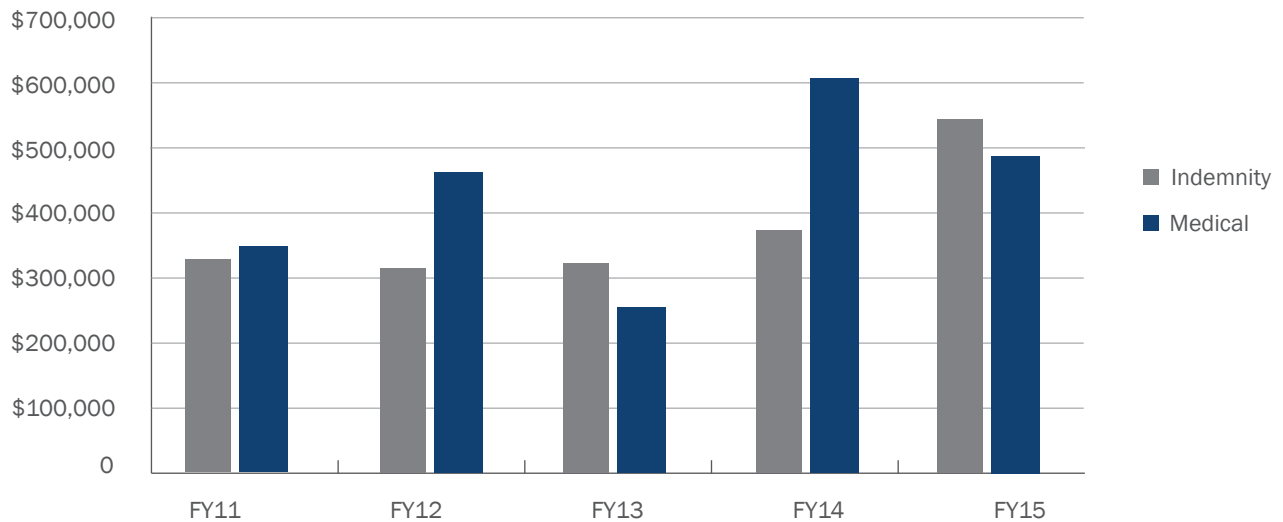


Exhibit 5.9

UEF Medical and Indemnity Payments By Fiscal Year of Payment

	FY11	FY12	FY13	FY14	FY15
Medical	\$347,370	\$461,800	\$254,668	\$606,952	\$487,609
Indemnity	\$326,599	\$313,826	\$321,557	\$372,898	\$543,858
Total	\$673,969	\$775,626	\$576,225	\$979,850	\$1,031,467

CONSTRUCTION CONTRACTOR REGISTRATION

The Construction Contractor Registration (CR) program facilitates the registration of construction contractors working in Montana. All construction contractors working in Montana that have employees, or are a corporation or manager-managed limited liability company doing construction work in Montana, are required by law to register. Hiring a registered construction contractor does not guarantee quality assurance, nor does it mean they are licensed, bonded, or tested.

The program serves three primary purposes:

1. Verify the contractor has complied with the workers' compensation insurance laws;
2. Prevent the liability of a workplace injury from moving upward from one contractor to another; and
3. Level the playing field by assuring all construction contractors with employees have a Montana workers' compensation insurance policy.

The CR program works cooperatively with representatives of the building industry and the public to provide education about the registration program and the hiring of building construction contractors.

The education program is accomplished through seminars, presentations, news articles, multi-media campaigns, conferences, and community fairs and shows. During outreach, contact has been made with over 120,000 people throughout the state.

STATUS UPDATE

There were 9,996 active contractors in FY15 and 5,112 CR applications were received during the year. Registered contractors with employees numbered 3,347, while 6,649 registered contractors did not have employees. Contractors without employees are not required to have a workers' compensation policy.

Montana's workers' compensation law does not allow coverage from other state's workers' compensation plans in the construction industry. An out-of-state company only bidding jobs in Montana, may ask for a "Bid Only" registration. There were 428 "Bid Only" contractors in FY15, compared to 498 in FY14. Out-of-state construction contractors must have a workers' compensation policy specific to Montana. Construction companies with "Bid Only" certificates must modify their registration before they can start working in Montana.

Three penalties, up to a maximum of \$500, were issued in FY15. Examples of violations include: performing work as a construction contractor without being registered; performing work as a construction contractor when the construction contractor's registration is suspended; transferring a valid registration to an unregistered construction contractor; or allowing an unregistered construction contractor to work under a registration issued to another construction contractor.

The website www.mtcontractor.com provides more information on construction contractor registration in Montana.

Exhibit 5.10

Registered Construction Contractor Applications

By Fiscal Year

	FY11	FY12	FY13	FY14	FY15
Applications Received	5,155	6,019	4,953	5,919	5,112
Active Contractors	10,126	9,546	9,940	9,759	9,996
Bid Only Contractors	491	693	598	498	428
Contractors with Employees	4,461	6,154	4,713	4,128	3,347

INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATES

An Independent Contractor Exemption Certificate (ICEC) allows the owner of a business, sole proprietor, working partner of a partnership, working partner of a limited liability partnership, a working member of a member-managed limited liability company (LLC), or a working manager of a manager-managed LLC (in the construction industry) to exempt themselves from workers' compensation coverage by applying for and receiving an ICEC for the specific occupation in which they want to work as an independent contractor. A manager of a manager-managed LLC (not in the construction industry) and a corporate officer of a corporation with more than 20% of the shares in the corporation or 20% ownership in the LLC may apply for an ICEC.

ICECs are issued through the Independent Contractor Central Unit (ICCU). It is the intent of the program to assure only those individuals who are truly established in a business will receive an ICEC and those who hire them can rely on the certificate as conclusive proof the worker is an independent contractor. The ICEC is valid for two years unless it is revoked, denied, or suspended.

Certificates may be suspended if control is exerted over the worker by the hiring agent enough to destroy the independent contractor relationship. They may also be revoked if a certificate holder fails to cooperate with the Department.

STATUS UPDATE

During FY15, 245 investigations took place across the state either affirming independent contractor relationships or requiring workers' compensation policies. The Department revoked 17 exemption certificates in FY15 compared to 30 in FY14, for failure to cooperate with Department's investigation.

One goal of the program is to educate the public of the rights and responsibilities of being an independent contractor or hiring one. This is accomplished through seminars, presentations, home show participation, news articles, multi-media campaigns, conferences, county fairs, and as a last resort, penalty enforcement. During outreach, contact has been made with over 120,000 people throughout the state.

The Department issued 30 penalties, from \$250 to \$1,000, for a total of \$17,450 in FY15. The Department waived four penalties and negotiated a settlement with one hiring agent, from \$15,000 to \$10,000, as the parties came into compliance with the law. Both the worker and those that hire them may be penalized.

The number of active ICECs for FY15 was 18,870. The Department received 9,964 applications during FY15, of which 9,714 were approved, 250 denied, and 17 revoked. Failure to provide a complete application was the primary reason for the denials and pending applications. Over half (60%) of the total applications received in FY15 were from the Construction industry. Administrative and Support and Waste Management and Remediation Services accounted for 11%, Transportation and Warehousing 8%, Professional, Scientific and Technical Services 6%, Agricultural & Forestry 4%, Arts, Entertainment and Recreation 4%, Other Services 3%, Health Care and Social Assistance 3% and Miscellaneous Industries (1% or less) 1%.

The website www.mtcontractor.com provides more information on independent contractors in Montana.

INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATES

Exhibit 5.11

Independent Contractor Exemptions

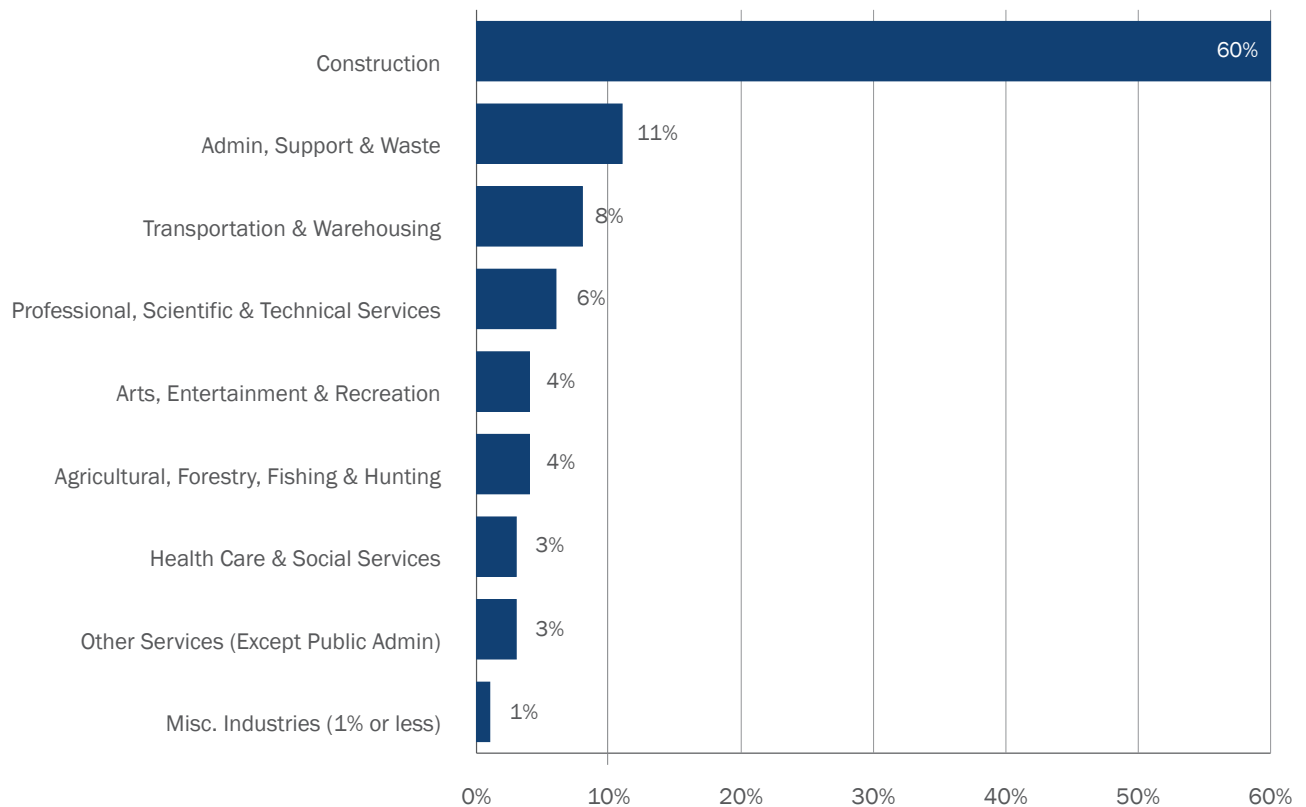
By Fiscal Year

	FY11	FY12	FY13	FY14	FY15
Applications Received	8,658	9,587	8,947	9,865	9,964
Active ICEC's	17,505	17,689	17,805	17,865	18,870

Exhibit 5.12

Independent Contractor Exemptions Applications – FY15

By Industry



PROFESSIONAL EMPLOYER ORGANIZATIONS

A Professional Employer Organization (PEO) is a business which contracts its employment services to other businesses, referred to as employers or members of the PEO. As the employer of record, a PEO becomes legally responsible for the hiring, firing, payment, insurance, taxation and regulation of all the employees subject to the agreement between the PEO and the employers.

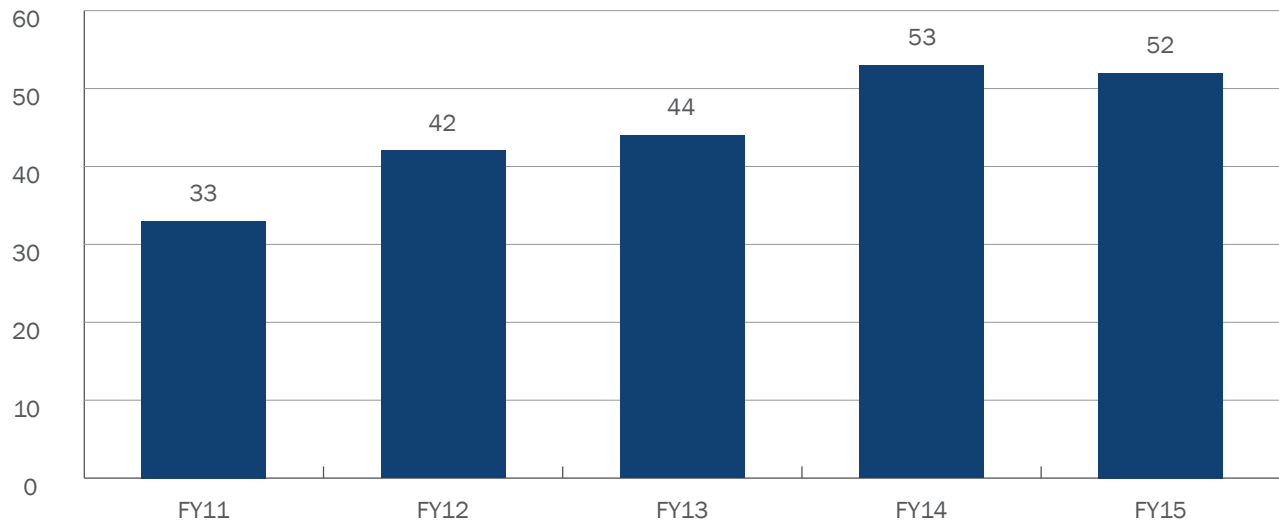
PEOs are required to be licensed by the Department of Labor and Industry. The legislature recognizes that there is a public need for professional employer services and finds it necessary in the interest of public health, safety, and welfare to establish standards for the operation, regulation, and licensing of professional employer organizations and groups in this state.

In FY15, the Department of Labor and Industry licensed 52 PEO's, a 2% decrease from the 53 licensed in FY14. The number of active PEO Employers increased from 505 in FY14 to 573 in FY15, a 13% increase. The number of leased employees increased from 3,678 in FY14 to 3,876 in FY15, a 5% increase.

Exhibit 5.13

Licensed Professional Employer Organizations

By Fiscal Year



PROFESSIONAL EMPLOYER ORGANIZATIONS

Exhibit 5.14

Number of Active PEO Employers

By Fiscal Year

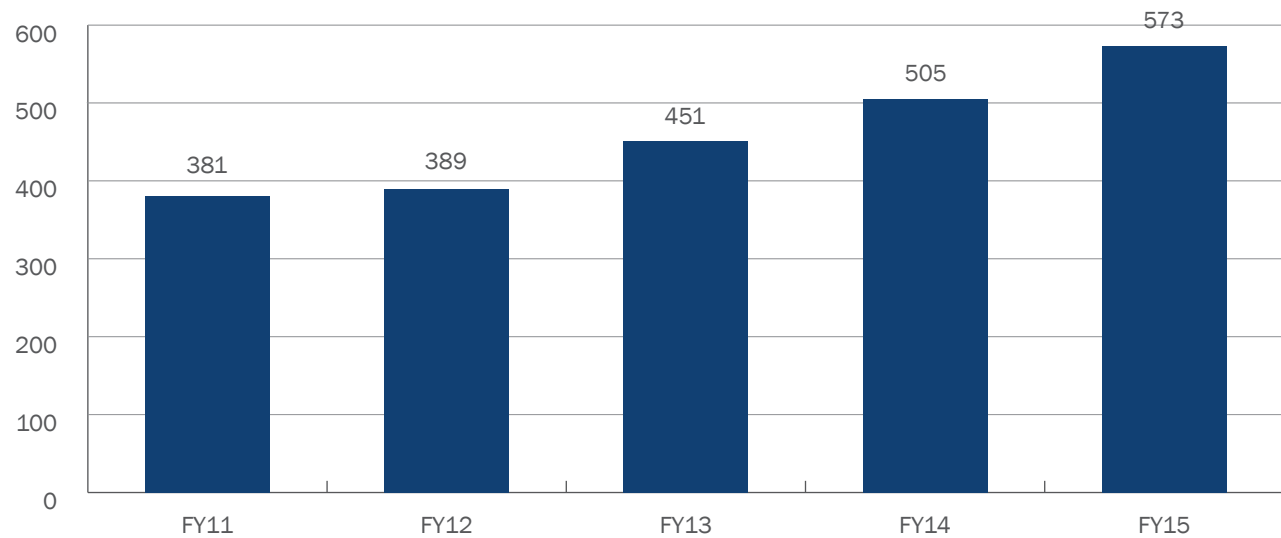
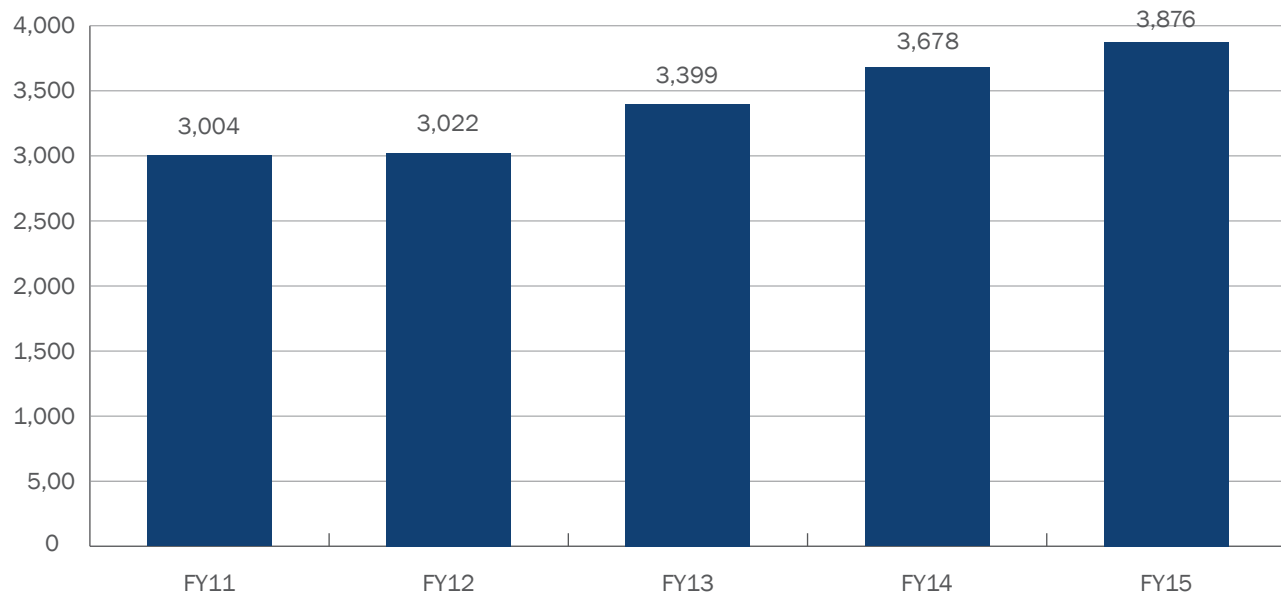


Exhibit 5.15

Leased Employees - Average Quarterly Count

By Fiscal Year



SAFETY & HEALTH

The purpose of the Safety and Health Bureau (SHB) is to raise the level of awareness of Montana employers and employees about workplace safety and health through inspection, consultation, technical assistance and training.

CONSULTATION

The Consultation Program provides on-site consultation services to both private and public sector; this includes small companies, city, county, and state entities. The

goal is to help identify and correct safety and health hazards to reduce potential accidents, injuries, and monetary penalties from regulatory bodies. In FY15, the consultation program had four safety consultants and four industrial hygienists. In the exhibits below, 'visits' are hazard investigations and 'interventions' involve education.

Exhibit 5.16

Public Employer Consultation Activities

By Fiscal Year

	FY14	FY15
State Government	19	13
County Government	9	9
City Government	6	12
College/Public Schools	6	8
Total Visits	40	42
Interventions	89	80
Total	129	122

Exhibit 5.17

Private Employer Consultation Activities

By Federal Fiscal Year

	FY14	FY15
Number of Employees covered	21,928	12,754
Number of Hazards Identified in work place	767	486
Total Visits	218	228
Interventions	145	95
Total	363	323

OUTREACH AND EDUCATION

The Outreach & Education Unit is working to reduce Montana's high injury, illness and fatality rates by assisting employers through free education and training. In addition to helping Montana employers, the unit also targets young workers, who are more at risk, by offering OSHA 10-hour training to high schools, colleges and youth-related organizations across the state. During FY15 the SHB held 160 OSHA 10-Hour classes for 1,374 students.

SafetyFestMT is perhaps the Department's largest educational outreach effort. The SHB hosts four events a year in both rural and urban communities throughout Montana. This free event is geared towards both employers and their employees, offering classes on a variety of topics. Of those that attended SafetyFestMT during FY15, 70% (742) were from the private sector and 30% (321) were from the public sector. The top four industries represented by attendees were Construction, Manufacturing, Other except Public Administration, and Health Care and Social Assistance.

SafetyFestMT events held during FY15 took place in the following communities:

Havre

- 154 attendees
- 28 Classes

Kalispell

- 422 attendees
- 61 Classes

Lewistown

- 282 attendees
- 35 Classes

Butte

- 205 attendees
- 39 classes

MINE SAFETY

The SHB, under the Montana Coal Mine Safety Act (§50-73-101, MCA), is responsible for workplace safety and health compliance in underground and surface coal mines. They conduct mine safety inspections and assist mine operators in safety training plan development. The SHB also inspects sand and gravel operations, under §50-72-101, MCA.

The SHB partners with contractors to ensure Mine Safety and Health Administration (MSHA) compliance and works with multiple county, state and federal agencies to assist in accident investigations and safety. Under a grant from MSHA, the Bureau provides CPR training and certification, new miner training, annual refresher courses, as well as Hazwoper annual refresher at centralized training facilities throughout the State.

In FY15, SHB conducted:

- 12 Coal Mining Inspections
- 120 Sand & Gravel Inspections
- 87 Training Sessions (Metal/NonMetal/Coal)
- 1,131 Workers Trained (Metal/NonMetal/Coal)

PUBLIC SECTOR SAFETY

The SHB, under the Montana Occupational Safety and Health Act (§50-71-114, MCA), is responsible for workplace safety and health compliance for public sector employers. They conduct unannounced workplace inspections and share industry best practices with public sector employers.

In FY15, SHB conducted:

- 3 Inspections
- 34 Interventions

MONTANA SAFETY CULTURE ACT

The Montana Safety Culture Act enacted by the 1993 Montana State Legislature encourages workers and employers to come together to create and implement a workplace safety philosophy. It is the intent of the act to raise workplace safety to a preeminent position in the minds of all Montana's workers and employers. It is the responsibility of employers to participate in the development and implementation of safety programs that will meet the specific needs of their workplace.

The SHB helps employers establish or strengthen a safety program appropriate to their business and employees' needs by incorporating the Montana Safety Culture Act.

STAY AT WORK/RETURN TO WORK

The 2011 Legislature directed Stay at Work/Return to Work (SAW/RTW) assistance be made available to injured workers upon request (§39-71-1041, MCA). The goal of the assistance is to minimize disruption caused by a work-related injury or disease by assisting the worker to return to the same position with the same employer or a modified position with the same employer as soon as possible after an injury or occupational disease occurs.

The SAW/RTW Assistance Program outreach in FY15 included training through four SafetyFestMT events, 15 Assistance to Business Clinics, and five presentations by request.

Since the program's implementation on July 1, 2012, 640 workers requested assistance by contacting their workers' compensation insurer (as reported) or the Department. SAW/RTW assistance was requested by 473 workers.

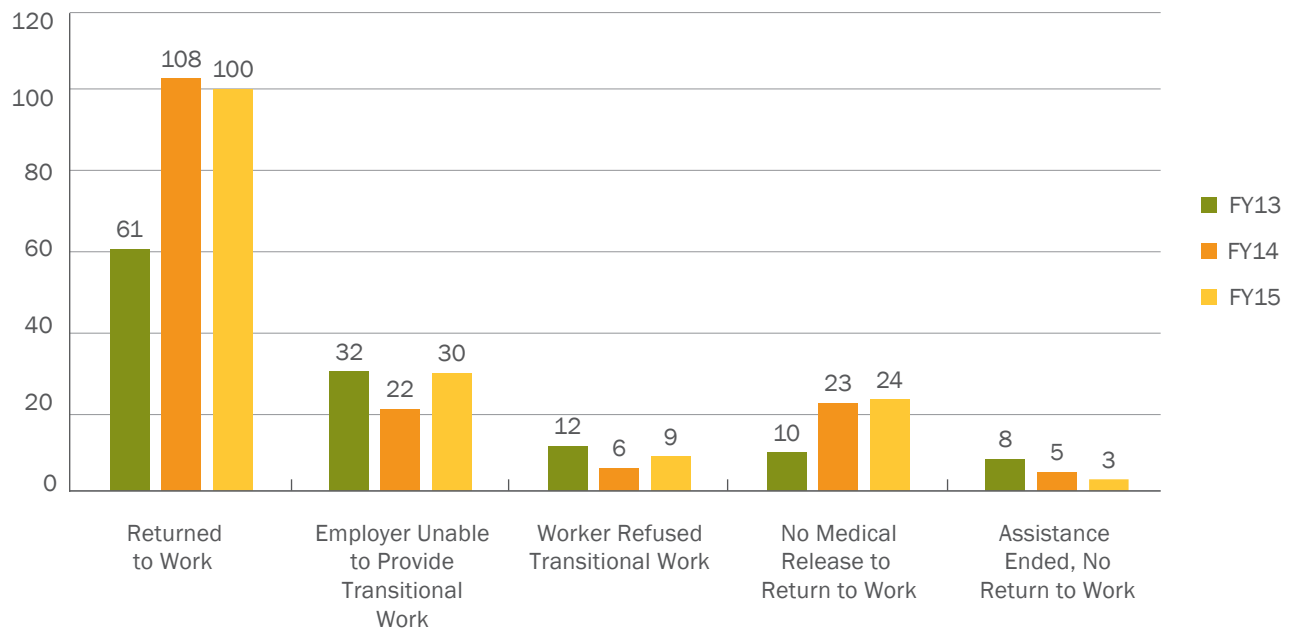
Known outcomes for these requests are:

- 269 injured workers returned to work with time of injury employer;
- 84 employers determined they could not provide transitional employment;
- 27 injured workers refused transitional work;
- 57 injured workers could not get a medical release to return to work; and
- 16 requests for assistance ended without a return to work.

Outcomes for these requests by fiscal year are represented in the below exhibit.

Exhibit 5.18

Stay at Work/Return to Work Program Outcomes By Fiscal Year



CLAIMS EXAMINER CERTIFICATION

The 2009 Legislative Session passed the voluntary Claims Examiner Certification process (§39-71-320, MCA). The purpose of this legislation was to establish standards for the voluntary certification of workers' compensation claims examiners handling workers' compensation

claims in the State of Montana. It provides minimum qualifications, an examination, a two-year certification and renewal process, continuing education requirements, and standards for the qualifications of instructors.

Exhibit 5.19

Claims Examiner Certification Activities

By Fiscal Year

	FY11	FY12	FY13	FY14	FY15
Total Examiners Certified as of FY End	*	*	124	136	159
New Examiners Certified	89	8	10	14	17
Examiners that took the Examination	3	8	10	14	17
Examiners that met the Waiver Requirements	86	0	0	0	0
Courses Approved	15	32	48	50	65

*No data available.

INDEPENDENT MEDICAL REVIEWS

An Independent Medical Review (IMR) is an informal, alternative dispute resolution process when a medical service is denied for one of the following reasons:

- treatment was not specifically addressed or recommended by the Montana Guidelines;
- treatment was requested after Maximum Medical Improvement (MMI);
- treatment went beyond the duration and frequency limits set out in the Guidelines; or
- the Guidelines require prior authorization.

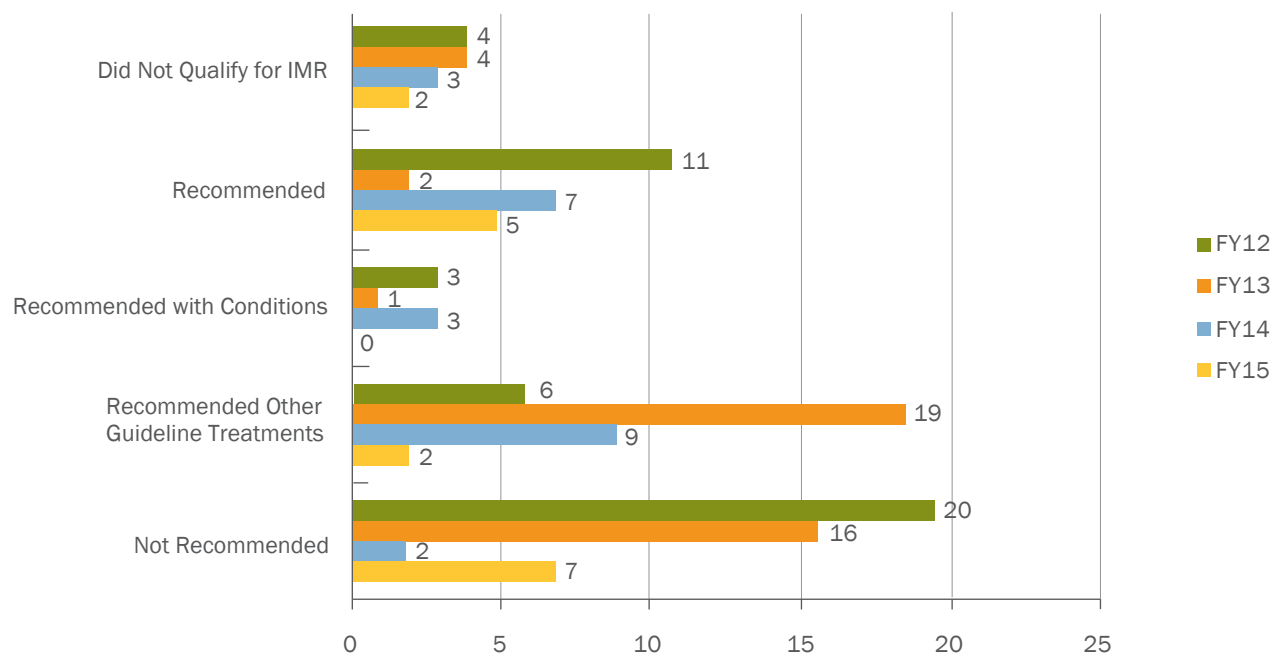
IMRs may be requested by the physician, injured worker, insurer or injured worker representative. IMRs apply to medical services provided on or after July 1, 2011 and decisions are not binding on the parties. The

Department's medical director reviews requests and issues decisions. The majority of requests are received from insurers – 63% in FY15. However, the number of requests from insurers dropped compared to FY14 (83%), while the percentage of requests from injured workers increased dramatically, from 0% in FY14 to 19% in FY15.

One-hundred-twenty-six IMRs were completed from FY12 through FY15. The number of IMRs has continued to decline since FY13, from 42 in FY13 to 16 in FY15. The decrease could be related to increased knowledge of Montana's Guidelines by insurers and claim administrators. An example of "Recommended with Conditions" could be that a claimant needs to complete smoking cessation prior to surgery.

Exhibit 5.20

Total Independent Medical Reviews By Resolution and Fiscal Year



INDEPENDENT MEDICAL REVIEWS

Exhibit 5.21

Total Independent Medical Reviews

By Resolution and Fiscal Year

	FY12		FY13		FY14		FY15	
Independent Medical Reviews	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Not Recommended	20	45%	16	38%	2	8%	7	44%
Recommended Other Guideline Treatments	6	14%	19	45%	9	38%	2	13%
Recommended with Conditions	3	7%	1	2%	3	13%	0	0%
Recommended	11	25%	2	5%	7	29%	5	31%
Did Not Qualify for IMR	4	9%	4	10%	3	13%	2	13%
Totals	44	100%	42	100%	24	100%	16	100%

Exhibit 5.22

Independent Medical Reviews

By Type of Requestor and Fiscal Year

	FY12		FY13		FY14		FY15	
Requestor	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Insurer	36	82%	33	79%	20	83%	10	63%
Physician Provider	4	9%	6	14%	4	17%	3	19%
Injured Worker	1	2%	2	5%	0	0%	3	19%
Injured Worker Representative	3	7%	1	2%	0	0%	0	0%
Totals	44	100%	42	100%	24	100%	16	100%

FIVE-YEAR CLOSURE OF MEDICAL BENEFITS

The 2011 Montana Legislature, through HB 334, provided for the termination of medical benefits 60 months from the date of injury or occupational disease (OD) for claims with dates of injury or OD on or after July 1, 2011. The termination does not apply to injured workers who are determined to be permanently totally disabled, receive care for the repair or replacement of a prosthesis, or to medical benefits settled or closed by agreement or by a court order. (§39-71-717, MCA)

The Legislature also provided a petition process for an injured worker to continue or reopen their medical benefits if they required the benefits to stay at work or to return to work. (§39-71-717, MCA) Department staff developed draft administrative rules and business processes to implement the petition process. Stakeholder input was solicited at the 2015 Governor's Conference on Workers' Compensation and Occupational Safety and Health.

The Department published a Notice of Rules on November 25, 2015 and a hearing was held on December 18, 2015. After consideration of comments, the Department published the Notice of Adoption on February 5, 2016. ERD conducted nine stakeholder training sessions across the state, which were attended by 159 persons.

Section

6

APPENDICES

- Definitions
- Data Sources
- Resources



DEFINITIONS

Calendar Year: The year beginning January 1st and ending December 31st.

Cause of Injury Code: The code that corresponds to the cause of injury or occupational disease. Maintained by the Workers' Compensation Insurance Organizations (WCIO), the cause of injury major groupings are:

Burn, Hot/Cold exposures – Contact With:

Chemicals, hot objects or substances, temperature extremes, fire or flame, steam or hot fluid, dust, gases, fumes or vapors, welding operation, radiation, cold objects or substances, abnormal air pressure, or electrical current.

Caught In, Under or Between: Machine or machinery, object handled, caught in, under or between, or collapsing materials (slides of earth).

Fall, Slip, Trip: From different level (elevation), from ladder or scaffolding, from liquid or grease spills, into openings, on same level, slip or trip did not fall, fall slip or trip, on ice or snow, or on stairs.

Motor Vehicle: Crash of water vehicle, crash of rail vehicle, collision or sideswipe with another vehicle, collision with a fixed object, crash of airplane, vehicle upset, or motor vehicle.

Puncture, Cut, Scrape: Broken glass, hand tool, utensil; not powered, object being lifted or handled, powered hand tool, appliance, or cut, puncture, scrape.

Strain: Continual noise, twisting, jumping or leaping, holding or carrying, lifting, pushing or pulling, reaching, using tool or machinery, strain or injury, wielding or throwing, or repetitive motion.

Striking Against or Step On: Moving part of machine, object being lifted or handled, sanding, scraping, cleaning operation, stationary object, stepping on sharp object, or striking against or stepping on.

Struck By Object: Fellow worker, patient or other person, falling or flying object, hand tool or machine in use, motor vehicle, moving parts of machine, object being lifted or handled, object handled by others, struck or injured, animal or insect, or explosion or flare back.

Miscellaneous Causes: Absorption, ingestion, or inhalation, foreign matter (body) in eye(s), natural disasters, and person in act of a crime, other than physical cause of injury, mold, terrorism, cumulative, gunshot, or other miscellaneous.

Employment Relations Division (ERD): ERD is part of the Department of Labor & Industry. The Division provides a wide variety of service and regulation related to the employer – employee relationship. This includes issues involving workers' compensation coverage and claims, human rights claims, workplace safety and health, wage and hour claims, prevailing wage claims, and public sector collective bargaining.

Extra-Territorial Reciprocal Agreement: A formal agreement between two states which allows employers temporarily doing business away from their home state to utilize their workers' compensation coverage in the other state, without needing to purchase additional coverage. When an agreement is in effect with another state, it allows for employers with workers from that state to work in Montana on a temporary basis without purchasing Montana coverage. It in turn allows Montana employers with workers to temporarily do business in the other state without purchasing that state's required coverage. The ERD Workers' Compensation Regulations Bureau oversees extra-territorial reciprocal agreements with Washington, Oregon, Idaho, Wyoming, Utah, and North & South Dakota.

Fiscal Year: The State of Montana's fiscal year begins July 1st and ends June 30th of the following year. (Example: 07/01/12 - 06/30/13 = FY13)

First Report of Injury and Occupational Disease

(FROI): The initial report designed to notify parties of the occurrence of an injury or occupational disease. The FROI contains basic claim information about the worker, accident, employer and insurer. It is completed and submitted to ERD by employees, employers or insurers. The Annual Report includes information on all injuries and occupational diseases reported to ERD; however, all injuries and occupational diseases that occurred in Montana may not have been reported.

Indemnity Benefits: Any payment made directly to the worker (or the worker's beneficiaries), other than a medical benefit. The term includes payments made pursuant to a reservation of rights, or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging. ARM 24.29.4303 (4)

DEFINITIONS

Independent Medical Review (IMR): A physician, injured worker, insurer or injured worker representative may request an IMR by the Department's medical director for medical treatment denied by the insurer, prior to mediation under 39-71-2401, MCA. The medical director will review the medical records of the injured worker and other information relevant to the denial and issue a recommendation. The medical director is the specific individual designated by the Department to serve as the medical director with respect to a given set of disputed treatments or procedures. The medical director's review and recommendation is an informal alternative dispute resolution process without administrative or judicial authority and is not binding on the parties.

Industry: The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS codes are grouped into different industrial divisions. The following is a list of examples of each division:

Accommodation and Food Services: This sector is comprised of establishments providing customers with lodging and/or preparing meals, snacks, and beverages for immediate consumption. The sector includes both establishments because the two activities are often combined at the same establishment.

Administrative and Support and Waste Management and Remediation Services: This sector is comprised of establishments performing routine support activities for the day-to-day operations of other organizations. These essential activities are often undertaken in-house by establishments in many sectors of the economy. The establishments in this sector specialize in one or more of these support activities and provide these services to clients in a variety of industries and, in some cases, to households. Activities performed include: office administration, hiring and placing of personnel, document preparation and similar clerical services, solicitation, collection, security and surveillance services, cleaning, and waste disposal services.

Agriculture, Forestry, Fishing and Hunting: This sector is comprised of establishments primarily engaged in growing crops, raising animals, harvesting timber, and harvesting fish and other animals from a farm, ranch, or their natural habitats.

Arts, Entertainment, and Recreation: This sector includes a wide range of establishments that operate facilities or provide services to meet varied cultural, entertainment, and recreational interests of their patrons. This sector comprises (1) establishments that are involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (2) establishments that preserve and exhibit objects and sites of historical, cultural, or educational interest; and (3) establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure-time interests.

Construction: This sector is comprised of establishments primarily engaged in the construction of buildings or engineering projects (e.g., highways and utility systems). Establishments primarily engaged in the preparation of sites for new construction and establishments primarily engaged in subdividing and for sale as building sites also are included in this sector.

Educational Services: This sector is comprised of establishments that provide instruction and training in a wide variety of subjects. This instruction and training is provided by specialized establishments, such as schools, colleges, universities, and training centers. These establishments may be privately owned and operated for profit or not for profit, or they may be publicly owned and operated. They may also offer food and/or accommodation services to their students.

Finance and Insurance: This sector is comprised of establishments primarily engaged in financial transactions (transactions involving the creation, liquidation, or change in ownership of financial assets) and/or in facilitating financial transactions.

Health Care and Social Assistance: This sector is comprised of establishments providing health care and social assistance for individuals. The sector includes both health care and social assistance because it is sometimes difficult to distinguish between the boundaries of these two activities. The industries in this sector are arranged on a continuum starting with those establishments providing medical care exclusively, continuing with those providing health care and social assistance, and finally finishing with those providing only social assistance. The services provided by establishments

DEFINITIONS

in this sector are delivered by trained professionals. All industries in the sector share this commonality of process, namely, labor inputs of health practitioners or social workers with the requisite expertise. Many of the industries in the sector are defined based on the educational degree held by the practitioners included in the industry.

Information: This sector is comprised of establishments engaged in the following processes: (1) producing and distributing information and cultural products, (2) providing the means to transmit or distribute these products as well as data or communications, and (3) processing data.

Management of Companies and Enterprises: This sector is comprised of (1) establishments that hold the securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest or influencing management decisions or (2) establishments (except government establishments) that administer, oversee, and manage establishments of the company or enterprise and that normally undertake the strategic or organizational planning and decision making role of the company or enterprise. Establishments that administer, oversee, and manage may hold the securities of the company or enterprise.

Manufacturing: This sector is comprised of establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. The assembling of component parts of manufactured products is considered manufacturing, except in cases where the activity is appropriately classified Construction.

Mining, Quarrying, and Oil and Gas Extraction: This sector is comprised of establishments that extract naturally occurring mineral solids, such as coal and ores; liquid minerals, such as crude petroleum; and gases, such as natural gas. The term mining is used in the broad sense to include quarrying, well operations, beneficiating (e.g., crushing, screening, washing, and flotation), and other preparation customarily performed at the mine site, or as a part of mining activity.

Other Services (except Public Administration): This sector is comprised of services not specifically provided for elsewhere in the classification system. Establishments in this sector are primarily engaged in activities such as equipment and machinery

repairing, promoting or administering religious activities, grant making, advocacy, and providing dry-cleaning and laundry services, personal care services, death care services, pet care services, photofinishing services, temporary parking services, and dating services.

Professional, Scientific, and Technical Services: This sector is comprised of establishments that specialize in performing professional, scientific, and technical activities for others. These activities require a high degree of expertise and training. The establishments in this sector specialize according to expertise and provide these services to clients in a variety of industries and, in some cases, to households. Activities performed include: legal advice and representation; accounting, bookkeeping, and payroll services; architectural, engineering, and specialized design services; computer services; consulting services; research services; advertising services; photographic services; translation and interpretation services; veterinary services; and other professional, scientific, and technical services.

Public Administration: This sector consists of establishments of federal, state, and local government agencies that administer, oversee, and manage public programs and have executive, legislative, or judicial authority over other institutions within a given area. These agencies also set policy, create laws, adjudicate civil and criminal legal cases, provide for public safety and for national defense. In general, government establishments in the Public Administration sector oversee governmental programs and activities that are not performed by private establishments. Establishments in this sector typically are engaged in the organization and financing of the production of public goods and services, most of which are provided for free or at prices that are not economically significant.

Real Estate and Rental and Leasing: This sector is comprised of establishments primarily engaged in renting, leasing, or otherwise allowing the use of tangible or intangible assets, and establishments providing related services. The major portion of this sector comprises establishments that rent, lease, or otherwise allow the use of their own assets by others. The assets may be tangible, as is the case of real estate and equipment, or intangible, as is the case with patents and trademarks.

DEFINITIONS

Retail Trade: This sector is comprised of establishments engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.

Transportation and Warehousing: This sector includes industries providing transportation of passengers and cargo, warehousing and storage for goods, scenic and sightseeing transportation, and support activities related to modes of transportation. Establishments in these industries use transportation equipment or transportation related facilities as a productive asset. The type of equipment depends on the mode of transportation. The modes of transportation are air, rail, water, road, and pipeline.

Utilities: This sector is comprised of establishments engaged in the provision of the following utility services: electric power, natural gas, steam supply, water supply, and sewage removal. Within this sector, the specific activities associated with the utility services provided vary by utility: electric power includes generation, transmission, and distribution; natural gas includes distribution; steam supply includes provision and/or distribution; water supply includes treatment and distribution; and sewage removal includes collection, treatment, and disposal of waste through sewer systems and sewage treatment facilities.

Wholesale Trade: This sector is comprised of establishments engaged in wholesaling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise. The merchandise described in this sector includes the outputs of agriculture, mining, manufacturing, and certain information industries, such as publishing.

International Association of Industrial Accident Boards and Commissions (IAIABC): The IAIABC is a not-for-profit trade association representing government agencies charged with the administration of workers' compensation systems throughout the United States, Canada, and other nations and territories. The IAIABC represents workers' compensation professionals, medical providers, insurers, and corporate agencies with 60 jurisdictions and over 150 associate corporate members. Working groups standardize reporting of workers' compensation data. Standards have been developed for communicating data electronically through Electronic Data Interchange (EDI).

Mediation Benefit Issues: Disputes are identified by detailed subjects or issues. Multiple issues may be identified for a single dispute. The issues are categorized as follows:

Medical Benefits: Includes medical treatment, domiciliary care entitlement, travel expenses, choice of treating physician, re-authorization of medical services, chiropractic treatment, co-payments, medical benefit rates, and miscellaneous medical issues.

Wage Loss Benefits: Includes TTD, TPD, PPD, and PTD benefits.

Relatedness: Includes issues of aggravation, subsequent injury, heart attack, psychological conditions, and others.

Injury/Occupational Requirement: Disputes concerning whether a medical condition meets the legal definition of injury and occupational disease; disputes over whether a medical condition arises within the course and scope of employment.

Access to Records: Disputes or delays in obtaining claim file records and/or related medical records.

Notice/Filing Time: Includes disputes over statutory notice to employer and timely filing of the claim.

Course & Scope: Center on whether or not the injured worker was within the performance of his/her employment at the time of the event; and if the injury or OD arose out of that employment. There are many varied scenarios within this category.

Employment/Insurance Coverage: Consist of disputes over employment, coverage, and responsible insurer.

Rehab Benefits: Disputes over retraining benefits and assistance with job placement, for all dates of injury.

Calculation of Wages: Disputes involving non-monetary compensation, concurrent wages, and appropriate wage periods. (Wages are used for calculation of compensation rates.)

Other: Includes a variety of less frequently disputed issues, the most common of which are other refusal or delay, lump sum payment disputes, death benefits, and reopening settlements.

DEFINITIONS

Medical Benefits: Payments for hospitals, physicians, health care providers, prescriptions, and other medical care costs associated with a claim for benefits.

Montana Code Annotated (MCA): The definitive guide to Montana laws, consisting of the Constitution, codes and statutes. The MCA is normally published each odd numbered year incorporating changes made by the Legislative session of that year.

Nature of Injury Code: The code that corresponds to the nature of the injury or occupational disease. Maintained by WCIO, the nature of injury major groupings are:

All Other Claims, Not Otherwise Classified (NOC): Includes asphyxiation, loss of circulation, infection, concussion, heart problems, vision loss, hearing loss, poisoning, fainting, no physical or psychological injuries; includes all records where nature code was reported as “unclassified”, the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.

Amputation: Includes loss of a limb that involves bone, loss of part of an organ, enucleation or severance of a body part.

Bruise or Swelling: Includes contusions, broken blood vessels and inflammation.

Burn or Exposure: Includes electrical shocks, chemical burns, temperature extremes, freezing, sunburns, heat stroke and lightning.

Cut or Abrasion: Includes slivers, lodged small objects, open wounds, scrapes and needle sticks.

Fracture: Includes any breaking of a bone.

Multiple Injuries: Involves more than one Nature of Injury Code.

Occupational Disease: Includes repetitive motion, loss of hearing or sight, respiratory conditions, poisoning, mental disorders, radiation, heart disease, cancer, AIDS, carpal tunnel and any disease resulting from work related experiences.

Sprain or Rupture: Includes strains, dislocations, hernias, organ ruptures and trauma to joints or muscles.

Other Benefit Codes: Codes that identify the type of other benefits paid to date or recovered for an injury or occupational disease. The following are IAIABC definitions for the codes used in this report:

Hospital Costs Paid to Date: Sum of costs of both inpatient and outpatient services.

Other Medical Paid to Date: Sum of medical costs to other providers not included in payments to physicians or hospital costs, i.e. laboratory tests, prescriptions.

Pharmaceutical Paid to Date: Sum of medication payments.

Total Payments to Physicians Paid to Date: Sum of services paid to physicians.

Part of Body Code: The code which corresponds to the part of body to which the employee sustained injury or occupational disease. Maintained by WCIO, the code definitions for part of body major groups are:

All Other Claims, NOC: Includes all records where the part of body code was reported as “unclassified”, the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.

Back: Includes the upper and lower back, disc, or lumbar and sacral vertebrae.

Head: Includes multiple head injuries, skull, brain, ears, eyes, nose, teeth, mouth, soft tissue or facial bones.

Knee: Includes the patella (kneecap) and supporting ligaments.

Lower Extremities: Includes multiple lower extremities, hip, upper leg, lower leg, ankle, foot and toe.

Multiple Body Parts: Includes artificial appliances, multiple body parts or body systems.

Neck: Includes multiple neck injuries, vertebrae, disc, spinal cord, larynx, soft tissue or trachea.

Trunk: Includes multiple trunk injuries, disc, chest, sacrum and coccyx, pelvis, spinal cord, internal organs, heart, lungs, abdomen (including groin) and buttocks.

DEFINITIONS

Upper Extremities: Includes multiple upper extremities, upper arm, elbow, lower arm, fingers, thumb and shoulders.

Wrist: Includes hand and wrist or just wrist injuries.

Occupational Disease (OD): Harm or damage caused by work-related events that occur on more than a single day or work shift. It includes acute chronic illnesses or diseases caused by inhalation, absorption, ingestion or overuse syndrome.

Occupational Injury: Internal or external physical harm to the body that is established by objective medical findings, caused by a specific work accident on a single day or during a single work shift.

Permanent Partial Disability (PPD): Permanent impairment resulting from an injury or occupational disease, after achieving maximum medical improvement, that impairs the worker's ability to work and causes an actual wage loss. PPD benefits are calculated using 66 2/3% of the wages received at the time of injury, not to exceed one-half the state's average weekly wage at the time of injury. Maximum length for PPD benefits is determined by the date of injury.

Permanent Total Disability (PTD): A physical condition resulting from an injury or occupational disease, after achieving maximum medical improvement, in which the worker has no reasonable prospect of physically performing regular employment. PTD benefits are calculated using 66 2/3% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury. The injured worker may receive cost of living increases.

Plan Type: The type of workers' compensation insurance coverage chosen by an employer. There are three different types of insurance plans:

Plan 1: Self-insurance provided by employers who have sufficient financial strength to cover potential workers' compensation claims. If an injury occurs, a self-insured employer will pay the expenses and benefits.

Plan 2: Insurance coverage provided by a private insurance company.

Plan 3: Insurance coverage provided by Montana State Fund.

Professional Employer Organizations (PEO): Professional Employer Organizations provide human resource services for small to medium size businesses. Examples of services provided by PEO's are staffing, securing unemployment and workers' compensation insurance, and handling payroll taxes and medical benefits. PEO's must be authorized by ERD prior to contracting with any client employers.

Subsequent Report of Injury (SROI): The SROI is completed for each individual claim with indemnity benefits and is submitted to ERD by adjusters or insurers on every six-month anniversary of the date of injury, until the claim is closed or additional compensation or medical payments are not anticipated. The form includes claimant identification information, status of the claim, type of benefits paid and benefits payment amounts. The Annual Report includes data reported to ERD on injury and occupational disease indemnity claims. SROIs may not have been submitted to ERD for all indemnity claims.

Temporary Partial Disability (TPD): A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement, that causes a partial loss of wages. TPD benefits are the difference between the injured worker's actual weekly wage and the actual weekly wage earned during the injured worker's temporary partial disability. They are subject to a maximum of 40 hours per week and capped at the injured worker's Temporary Total Disability rate.

Temporary Total Disability (TTD): A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement that causes a total loss of wages. TTD benefits are calculated using 66 2/3% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury.

Uninsured Employers' Fund (UEF): Enforces workers' compensation coverage requirements for all employers, and pays benefits to injured workers whose employers do not have coverage.

Utilization and Treatment Guidelines (Montana Guidelines): The Department was required by statute to implement guidelines for workers' compensation medical treatments. The Montana Guidelines are based on the existing Colorado Workers' Compensation Medical Treatment Guidelines, supplemented with the ACOEM Guidelines, for use in Montana. The purpose of the Montana Guidelines is to assist injured workers in

DEFINITIONS

receiving prompt and appropriate care, assist injured workers in stay-at-work/return-to-work options, assist clinicians in making decisions for specific conditions, and help insurers make reimbursement determinations. Montana Guidelines are enforceable for payment purposes. The Department recognizes that acceptable medical practice may include deviations from the guidelines and that the Montana Guidelines are not relevant as evidence of a provider's legal standard of professional care.

The Montana Guidelines are applicable to all medical services provided on or after July 1, 2011 and establish a presumption of compensability for injuries and occupational diseases occurring on or after July 1, 2007. For those injuries or occupational diseases occurring on or before June 30, 2007, treatment in accordance with the Montana Guidelines constitutes reasonable primary or secondary medical treatment.

Vocational Rehabilitation Benefits: Benefits paid to the injured worker at the worker's TTD rate. The benefits are paid for the period specified in the job placement or retraining plan, not to exceed 104 weeks. The plan is prepared by the rehabilitation provider and agreed to by the insurer and injured worker.

Wage Loss Benefits: TTD, TPD, PTD, and PPD benefits paid to the injured worker.

Workers' Compensation Insurance Organizations (WCIO): A voluntary association of statutorily authorized or licensed rating, advisory or data service organizations that collect workers compensation insurance information in one or more states. The WCIO is composed of the managers of the various boards and jurisdictions. The purpose of the WCIO is to provide a forum for the exchange of information about workers' compensation insurance.

DATA SOURCES

Montana Department of Labor & Industry

Workers' Compensation Claims Assistance Bureau,
Workers' Compensation Regulations Bureau, Safety and
Health Bureau, and Hearings Bureau.

Quarterly Expenditure Reports

Totals of compensation, medical, and miscellaneous
expenses reported to the Department by carriers.

Quarterly Census of Employment and Wages, Bureau of Labor Statistics, US Department of Labor

Regulatory Costs and Industrial Accident Rehabilitation Trust Fund Expenses

Costs obtained from the State's Accounting, Budgeting,
and Human Resource System (SABHRS).

Unemployment Insurance Tax System for Leased Employees

Workers' Compensation Court

Workers' Compensation Database (WCAN)

Employers, insurers, claimants, attorneys, medical
providers and other parties of the workers' compensation
community in Montana provide data for the system. ERD
maintains the database.

The data is as accurate as reported to the Employment
Relations Division and does not include reserves.
Payment data on individual medical-only claims is not
reported to ERD. Counts and totals may change over time
due to updated reports and data clean-up efforts. Federal
workers' claims are not represented in this report.

RESOURCES

WEBSITE

This report, previous reports, and other special reports are available on the Internet at the following web site: erd.dli.mt.gov/work-comp-claims/data-management/data-management-publications.

To request a copy of the Annual Report, Attorney Fee Supplement, or special studies, please contact Loraine Hovland by phone: (406) 444-6517 or e-mail: lhovland@mt.gov.

SUGGESTIONS

If you have suggestions or comments about this annual report, please share them with us through the online survey or contact David Elenbaas by phone: (406) 444-6527 or e-mail: daelenbaas@mt.gov.

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